

1 AN ACT concerning children.

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

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

6 (20 ILCS 1305/1-17)

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

8 Sec. 1-17. Inspector General.

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

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

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

6 "Adult student with a disability" means an adult student,
7 age 18 through 21, inclusive, with an Individual Education
8 Program, other than a resident of a facility licensed by the
9 Department of Children and Family Services in accordance with
10 the Child Care Act of 1969. For purposes of this definition,
11 "through age 21, inclusive", means through the day before the
12 student's 22nd birthday.

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 to law enforcement.

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

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

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

21 (m) Investigative reports. Upon completion of an
22 investigation, the Office of Inspector General shall issue an
23 investigative report identifying whether the allegations are
24 substantiated, unsubstantiated, or unfounded. Within 10
25 business days after the transmittal of a completed
26 investigative report substantiating an allegation, or if a

1 recommendation is made, the Inspector General shall provide the
2 investigative report on the case to the Secretary and to the
3 director of the facility or agency where any one or more of the
4 following occurred: mental abuse, physical abuse, sexual
5 abuse, neglect, egregious neglect, or financial exploitation.
6 In a substantiated case, the investigative report shall include
7 any mitigating or aggravating circumstances that were
8 identified during the investigation. If the case involves
9 substantiated neglect, the investigative report shall also
10 state whether egregious neglect was found. An investigative
11 report may also set forth recommendations. All investigative
12 reports prepared by the Office of the Inspector General shall
13 be considered confidential and shall not be released except as
14 provided by the law of this State or as required under
15 applicable federal law. Unsubstantiated and unfounded reports
16 shall not be disclosed except as allowed under Section 6 of the
17 Abused and Neglected Long Term Care Facility Residents
18 Reporting Act. Raw data used to compile the investigative
19 report shall not be subject to release unless required by law
20 or a court order. "Raw data used to compile the investigative
21 report" includes, but is not limited to, any one or more of the
22 following: the initial complaint, witness statements,
23 photographs, investigator's notes, police reports, or incident
24 reports. If the allegations are substantiated, the accused
25 shall be provided with a redacted copy of the investigative
26 report. Death reports where there was no allegation of abuse or

1 neglect shall only be released pursuant to applicable State or
2 federal law or a valid court order.

3 (n) Written responses and reconsideration requests.

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

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

20 (o) Disclosure of the finding by the Inspector General. The
21 Inspector General shall disclose the finding of an
22 investigation to the following persons: (i) the Governor, (ii)
23 the Secretary, (iii) the director of the facility or agency,
24 (iv) the alleged victims and their guardians, (v) the
25 complainant, and (vi) the accused. This information shall
26 include whether the allegations were deemed substantiated,

1 unsubstantiated, or unfounded.

2 (p) Secretary review. Upon review of the Inspector
3 General's investigative report and any agency's or facility's
4 written response, the Secretary shall accept or reject the
5 written response and notify the Inspector General of that
6 determination. The Secretary may further direct that other
7 administrative action be taken, including, but not limited to,
8 any one or more of the following: (i) additional site visits,
9 (ii) training, (iii) provision of technical assistance
10 relative to administrative needs, licensure or certification,
11 or (iv) the imposition of appropriate sanctions.

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

1 contact, and (iii) requests for additional documentation
2 evidencing compliance.

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

9 (1) Appointment of on-site monitors.

10 (2) Transfer or relocation of an individual or
11 individuals.

12 (3) Closure of units.

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

14 (i) Department licensing, (ii) funding, or (iii)
15 certification.

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

19 (s) Health care worker registry.

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

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

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

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

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

21 (5) Employee's rights to collateral action. No
22 reporting to the registry shall occur and no hearing shall
23 be set or proceed if an employee notifies the Inspector
24 General in writing, including any supporting
25 documentation, that he or she is formally contesting an
26 adverse employment action resulting from a substantiated

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

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

25 (t) Review of Administrative Decisions. The Department
26 shall preserve a record of all proceedings at any formal

1 hearing conducted by the Department involving health care
2 worker registry hearings. Final administrative decisions of
3 the Department are subject to judicial review pursuant to
4 provisions of the Administrative Review Law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;
12 96-555, eff. 8-18-09; revised 9-25-09.)

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

14 Sec. 1-17. Inspector General.

15 (a) Nature and purpose. It is the express intent of the
16 General Assembly to ensure the health, safety, and financial
17 condition of individuals receiving services in this State due
18 to mental illness, developmental disability, or both by
19 protecting those persons from acts of abuse, neglect, or both
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22 investigate and report upon allegations of the abuse, neglect,
23 or financial exploitation of individuals receiving services
24 within mental health facilities, developmental disabilities
25 facilities, and community agencies operated, licensed, funded

1 or certified by the Department of Human Services, but not
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3 express intent of the General Assembly to authorize the
4 Inspector General to investigate alleged or suspected cases of
5 abuse, neglect, or financial exploitation of adults with
6 disabilities living in domestic settings in the community under
7 the Abuse of Adults with Disabilities Intervention Act.

8 (b) Definitions. The following definitions apply to this
9 Section:

10 "Adult student with a disability" means an adult student,
11 age 18 through 21, inclusive, with an Individual Education
12 Program, other than a resident of a facility licensed by the
13 Department of Children and Family Services in accordance with
14 the Child Care Act of 1969. For purposes of this definition,
15 "through age 21, inclusive", means through the day before the
16 student's 22nd birthday.

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

25 "Aggravating circumstance" means a factor that is
26 attendant to a finding and that tends to compound or increase

1 the culpability of the accused.

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

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

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

13 "Department" means the Department of Human Services.

14 "Developmentally disabled" means having a developmental
15 disability.

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

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

26 "Employee" means any person who provides services at the

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

9 "Facility" or "State-operated facility" means a mental
10 health facility or developmental disabilities facility
11 operated by the Department.

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

16 "Finding" means the Office of Inspector General's
17 determination regarding whether an allegation is
18 substantiated, unsubstantiated, or unfounded.

19 "Health care worker registry" or "registry" means the
20 health care worker registry created by the Nursing Home Care
21 Act.

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

25 "Mental abuse" means the use of demeaning, intimidating, or
26 threatening words, signs, gestures, or other actions by an

1 employee about an individual and in the presence of an
2 individual or individuals that results in emotional distress or
3 maladaptive behavior, or could have resulted in emotional
4 distress or maladaptive behavior, for any individual present.

5 "Mental illness" means "mental illness" as defined in the
6 Mental Health and Developmental Disabilities Code.

7 "Mentally ill" means having a mental illness.

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

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

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

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

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

9 "Secretary" means the Chief Administrative Officer of the
10 Department.

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

17 "Substantiated" means there is a preponderance of the
18 evidence to support the allegation.

19 "Unfounded" means there is no credible evidence to support
20 the allegation.

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

24 (c) Appointment. The Governor shall appoint, and the Senate
25 shall confirm, an Inspector General. The Inspector General
26 shall be appointed for a term of 4 years and shall function

1 within the Department of Human Services and report to the
2 Secretary and the Governor.

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

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

1 Board set forth in the Mental Health and Developmental
2 Disabilities Code. The Inspector General shall have no
3 authority to investigate alleged violations of the State
4 Officials and Employees Ethics Act. Allegations of misconduct
5 under the State Officials and Employees Ethics Act shall be
6 referred to the Office of the Governor's Executive Inspector
7 General for investigation.

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

20 (g) Rulemaking authority. The Inspector General shall
21 promulgate rules establishing minimum requirements for
22 reporting allegations as well as for initiating, conducting,
23 and completing investigations based upon the nature of the
24 allegation or allegations. The rules shall clearly establish
25 that if 2 or more State agencies could investigate an
26 allegation, the Inspector General shall not conduct an

1 investigation that would be redundant to, or interfere with, an
2 investigation conducted by another State agency. The rules
3 shall further clarify the method and circumstances under which
4 the Office of Inspector General may interact with the
5 licensing, funding, or certification units of the Department in
6 preventing further occurrences of mental abuse, physical
7 abuse, sexual abuse, neglect, egregious neglect, and financial
8 exploitation.

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

24 (i) Duty to cooperate.

25 (1) The Inspector General shall at all times be granted
26 access to any facility or agency for the purpose of

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

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

1 the Inspector General is in violation of this Act.

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

15 (k) Reporting allegations and deaths.

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

1 defined in subsection (b) of this Section who knowingly or
2 intentionally fails to comply with these reporting
3 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

21 (1) Reporting to law enforcement.

22 (1) Reporting criminal acts. Within 24 hours after
23 determining that there is credible evidence indicating
24 that a criminal act may have been committed or that special
25 expertise may be required in an investigation, the
26 Inspector General shall notify the Department of State

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

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

25 (m) Investigative reports. Upon completion of an
26 investigation, the Office of Inspector General shall issue an

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

1 photographs, investigator's notes, police reports, or incident
2 reports. If the allegations are substantiated, the accused
3 shall be provided with a redacted copy of the investigative
4 report. Death reports where there was no allegation of abuse or
5 neglect shall only be released pursuant to applicable State or
6 federal law or a valid court order.

7 (n) Written responses and reconsideration requests.

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

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

24 (o) Disclosure of the finding by the Inspector General. The
25 Inspector General shall disclose the finding of an
26 investigation to the following persons: (i) the Governor, (ii)

1 the Secretary, (iii) the director of the facility or agency,
2 (iv) the alleged victims and their guardians, (v) the
3 complainant, and (vi) the accused. This information shall
4 include whether the allegations were deemed substantiated,
5 unsubstantiated, or unfounded.

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

16 (q) Action by facility or agency. Within 30 days of the
17 date the Secretary approves the written response or directs
18 that further administrative action be taken, the facility or
19 agency shall provide an implementation report to the Inspector
20 General that provides the status of the action taken. The
21 facility or agency shall be allowed an additional 30 days to
22 send notice of completion of the action or to send an updated
23 implementation report. If the action has not been completed
24 within the additional 30 day period, the facility or agency
25 shall send updated implementation reports every 60 days until
26 completion. The Inspector General shall conduct a review of any

1 implementation plan that takes more than 120 days after
2 approval to complete, and shall monitor compliance through a
3 random review of approved written responses, which may include,
4 but are not limited to: (i) site visits, (ii) telephone
5 contact, and (iii) requests for additional documentation
6 evidencing compliance.

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

13 (1) Appointment of on-site monitors.

14 (2) Transfer or relocation of an individual or
15 individuals.

16 (3) Closure of units.

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

18 (i) Department licensing, (ii) funding, or (iii)
19 certification.

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

23 (s) Health care worker registry.

24 (1) Reporting to the registry. The Inspector General
25 shall report to the Department of Public Health's health
26 care worker registry, a public registry, ~~MR/DD Community~~

1 ~~Care Act~~ the identity and finding of each employee of a
2 facility or agency against whom there is a final
3 investigative report containing a substantiated allegation
4 of physical or sexual abuse or egregious neglect of an
5 individual. ~~MR/DD Community Care Act~~

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

24 (3) Registry hearings. If the employee requests an
25 administrative hearing, the employee shall be granted an
26 opportunity to appear before an administrative law judge to

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

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

26 (5) Employee's rights to collateral action. No

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

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

1 from the registry is in the public interest. The parties
2 may jointly request that the administrative law judge
3 consider a stipulated disposition of these proceedings.

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

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

21 Members appointed by the Governor shall be qualified by
22 professional knowledge or experience in the area of law,
23 investigatory techniques, or in the area of care of the
24 mentally ill or developmentally disabled. Two members
25 appointed by the Governor shall be persons with a disability or
26 a parent of a person with a disability. Members shall serve

1 without compensation, but shall be reimbursed for expenses
2 incurred in connection with the performance of their duties as
3 members.

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

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

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

18 (2) Review existing regulations relating to the
19 operation of facilities.

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

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

26 (v) Annual report. The Inspector General shall provide to

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

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

1 January 1 following the audit period.

2 (x) Nothing in this Section shall be construed to mean that
3 a patient is a victim of abuse or neglect because of health
4 care services appropriately provided or not provided by health
5 care professionals.

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

16 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;
17 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; revised 9-25-09.)

18 Section 10. The Abused and Neglected Child Reporting Act is
19 amended by changing Sections 2, 3, 4, 7, 7.3, 7.4, 7.7, 7.10,
20 7.14, 8.1, 8.5, 9, 9.1, and 11 and by adding Section 4.4a as
21 follows:

22 (325 ILCS 5/2) (from Ch. 23, par. 2052)

23 Sec. 2. (a) The Illinois Department of Children and Family
24 Services shall, upon receiving reports made under this Act,

1 protect the health, safety, and best interests of the child in
2 all situations in which the child is vulnerable to child abuse
3 or neglect, offer protective services in order to prevent any
4 further harm to the child and to other children in the same
5 environment or family, stabilize the home environment, and
6 preserve family life whenever possible. Recognizing that
7 children also can be abused and neglected while living in
8 public or private residential agencies or institutions meant to
9 serve them, while attending day care centers, schools, or
10 religious activities, or when in contact with adults who are
11 responsible for the welfare of the child at that time, this Act
12 also provides for the reporting and investigation of child
13 abuse and neglect in such instances. In performing any of these
14 duties, the Department may utilize such protective services of
15 voluntary agencies as are available.

16 (b) The Department shall be responsible for receiving and
17 investigating reports of adult resident abuse or neglect under
18 the provisions of this Act.

19 (Source: P.A. 92-801, eff. 8-16-02.)

20 (325 ILCS 5/3) (from Ch. 23, par. 2053)

21 Sec. 3. As used in this Act unless the context otherwise
22 requires:

23 "Adult resident" means any person between 18 and 22 years
24 of age who resides in any facility licensed by the Department
25 under the Child Care Act of 1969. For purposes of this Act, the

1 criteria set forth in the definitions of "abused child" and
2 "neglected child" shall be used in determining whether an adult
3 resident is abused or neglected.

4 "Child" means any person under the age of 18 years, unless
5 legally emancipated by reason of marriage or entry into a
6 branch of the United States armed services.

7 "Department" means Department of Children and Family
8 Services.

9 "Local law enforcement agency" means the police of a city,
10 town, village or other incorporated area or the sheriff of an
11 unincorporated area or any sworn officer of the Illinois
12 Department of State Police.

13 "Abused child" means a child whose parent or immediate
14 family member, or any person responsible for the child's
15 welfare, or any individual residing in the same home as the
16 child, or a paramour of the child's parent:

17 (a) inflicts, causes to be inflicted, or allows to be
18 inflicted upon such child physical injury, by other than
19 accidental means, which causes death, disfigurement,
20 impairment of physical or emotional health, or loss or
21 impairment of any bodily function;

22 (b) creates a substantial risk of physical injury to
23 such child by other than accidental means which would be
24 likely to cause death, disfigurement, impairment of
25 physical or emotional health, or loss or impairment of any
26 bodily function;

1 (c) commits or allows to be committed any sex offense
2 against such child, as such sex offenses are defined in the
3 Criminal Code of 1961, as amended, and extending those
4 definitions of sex offenses to include children under 18
5 years of age;

6 (d) commits or allows to be committed an act or acts of
7 torture upon such child;

8 (e) inflicts excessive corporal punishment;

9 (f) commits or allows to be committed the offense of
10 female genital mutilation, as defined in Section 12-34 of
11 the Criminal Code of 1961, against the child; or

12 (g) causes to be sold, transferred, distributed, or
13 given to such child under 18 years of age, a controlled
14 substance as defined in Section 102 of the Illinois
15 Controlled Substances Act in violation of Article IV of the
16 Illinois Controlled Substances Act or in violation of the
17 Methamphetamine Control and Community Protection Act,
18 except for controlled substances that are prescribed in
19 accordance with Article III of the Illinois Controlled
20 Substances Act and are dispensed to such child in a manner
21 that substantially complies with the prescription.

22 A child shall not be considered abused for the sole reason
23 that the child has been relinquished in accordance with the
24 Abandoned Newborn Infant Protection Act.

25 "Neglected child" means any child who is not receiving the
26 proper or necessary nourishment or medically indicated

1 treatment including food or care not provided solely on the
2 basis of the present or anticipated mental or physical
3 impairment as determined by a physician acting alone or in
4 consultation with other physicians or otherwise is not
5 receiving the proper or necessary support or medical or other
6 remedial care recognized under State law as necessary for a
7 child's well-being, or other care necessary for his or her
8 well-being, including adequate food, clothing and shelter; or
9 who is abandoned by his or her parents or other person
10 responsible for the child's welfare without a proper plan of
11 care; or who has been provided with interim crisis intervention
12 services under Section 3-5 of the Juvenile Court Act of 1987
13 and whose parent, guardian, or custodian refuses to permit the
14 child to return home and no other living arrangement agreeable
15 to the parent, guardian, or custodian can be made, and the
16 parent, guardian, or custodian has not made any other
17 appropriate living arrangement for the child; or who is a
18 newborn infant whose blood, urine, or meconium contains any
19 amount of a controlled substance as defined in subsection (f)
20 of Section 102 of the Illinois Controlled Substances Act or a
21 metabolite thereof, with the exception of a controlled
22 substance or metabolite thereof whose presence in the newborn
23 infant is the result of medical treatment administered to the
24 mother or the newborn infant. A child shall not be considered
25 neglected for the sole reason that the child's parent or other
26 person responsible for his or her welfare has left the child in

1 the care of an adult relative for any period of time. A child
2 shall not be considered neglected for the sole reason that the
3 child has been relinquished in accordance with the Abandoned
4 Newborn Infant Protection Act. A child shall not be considered
5 neglected or abused for the sole reason that such child's
6 parent or other person responsible for his or her welfare
7 depends upon spiritual means through prayer alone for the
8 treatment or cure of disease or remedial care as provided under
9 Section 4 of this Act. A child shall not be considered
10 neglected or abused solely because the child is not attending
11 school in accordance with the requirements of Article 26 of The
12 School Code, as amended.

13 "Child Protective Service Unit" means certain specialized
14 State employees of the Department assigned by the Director to
15 perform the duties and responsibilities as provided under
16 Section 7.2 of this Act.

17 "Person responsible for the child's welfare" means the
18 child's parent; guardian; foster parent; relative caregiver;
19 any person responsible for the child's welfare in a public or
20 private residential agency or institution; any person
21 responsible for the child's welfare within a public or private
22 profit or not for profit child care facility; or any other
23 person responsible for the child's welfare at the time of the
24 alleged abuse or neglect, or any person who came to know the
25 child through an official capacity or position of trust,
26 including but not limited to health care professionals,

1 educational personnel, recreational supervisors, members of
2 the clergy, and volunteers or support personnel in any setting
3 where children may be subject to abuse or neglect.

4 "Temporary protective custody" means custody within a
5 hospital or other medical facility or a place previously
6 designated for such custody by the Department, subject to
7 review by the Court, including a licensed foster home, group
8 home, or other institution; but such place shall not be a jail
9 or other place for the detention of criminal or juvenile
10 offenders.

11 "An unfounded report" means any report made under this Act
12 for which it is determined after an investigation that no
13 credible evidence of abuse or neglect exists.

14 "An indicated report" means a report made under this Act if
15 an investigation determines that credible evidence of the
16 alleged abuse or neglect exists.

17 "An undetermined report" means any report made under this
18 Act in which it was not possible to initiate or complete an
19 investigation on the basis of information provided to the
20 Department.

21 "Subject of report" means any child reported to the central
22 register of child abuse and neglect established under Section
23 7.7 of this Act and his or her parent, guardian or other person
24 responsible who is also named in the report.

25 "Perpetrator" means a person who, as a result of
26 investigation, has been determined by the Department to have

1 caused child abuse or neglect.

2 "Member of the clergy" means a clergyman or practitioner of
3 any religious denomination accredited by the religious body to
4 which he or she belongs.

5 (Source: P.A. 94-556, eff. 9-11-05; 95-443, eff. 1-1-08.)

6 (325 ILCS 5/4) (from Ch. 23, par. 2054)

7 Sec. 4. Persons required to report; privileged
8 communications; transmitting false report. Any physician,
9 resident, intern, hospital, hospital administrator and
10 personnel engaged in examination, care and treatment of
11 persons, surgeon, dentist, dentist hygienist, osteopath,
12 chiropractor, podiatrist, physician assistant, substance abuse
13 treatment personnel, funeral home director or employee,
14 coroner, medical examiner, emergency medical technician,
15 acupuncturist, crisis line or hotline personnel, school
16 personnel (including administrators and both certified and
17 non-certified school employees), educational advocate assigned
18 to a child pursuant to the School Code, member of a school
19 board or the Chicago Board of Education or the governing body
20 of a private school (but only to the extent required in
21 accordance with other provisions of this Section expressly
22 concerning the duty of school board members to report suspected
23 child abuse), truant officers, social worker, social services
24 administrator, domestic violence program personnel, registered
25 nurse, licensed practical nurse, genetic counselor,

1 respiratory care practitioner, advanced practice nurse, home
2 health aide, director or staff assistant of a nursery school or
3 a child day care center, recreational program or facility
4 personnel, law enforcement officer, licensed professional
5 counselor, licensed clinical professional counselor,
6 registered psychologist and assistants working under the
7 direct supervision of a psychologist, psychiatrist, or field
8 personnel of the Department of Healthcare and Family Services,
9 Juvenile Justice, Public Health, Human Services (acting as
10 successor to the Department of Mental Health and Developmental
11 Disabilities, Rehabilitation Services, or Public Aid),
12 Corrections, Human Rights, or Children and Family Services,
13 supervisor and administrator of general assistance under the
14 Illinois Public Aid Code, probation officer, animal control
15 officer or Illinois Department of Agriculture Bureau of Animal
16 Health and Welfare field investigator, or any other foster
17 parent, homemaker or child care worker having reasonable cause
18 to believe a child known to them in their professional or
19 official capacity may be an abused child or a neglected child
20 shall immediately report or cause a report to be made to the
21 Department.

22 Any member of the clergy having reasonable cause to believe
23 that a child known to that member of the clergy in his or her
24 professional capacity may be an abused child as defined in item
25 (c) of the definition of "abused child" in Section 3 of this
26 Act shall immediately report or cause a report to be made to

1 the Department.

2 If an allegation is raised to a school board member during
3 the course of an open or closed school board meeting that a
4 child who is enrolled in the school district of which he or she
5 is a board member is an abused child as defined in Section 3 of
6 this Act, the member shall direct or cause the school board to
7 direct the superintendent of the school district or other
8 equivalent school administrator to comply with the
9 requirements of this Act concerning the reporting of child
10 abuse. For purposes of this paragraph, a school board member is
11 granted the authority in his or her individual capacity to
12 direct the superintendent of the school district or other
13 equivalent school administrator to comply with the
14 requirements of this Act concerning the reporting of child
15 abuse.

16 Notwithstanding any other provision of this Act, if an
17 employee of a school district has made a report or caused a
18 report to be made to the Department under this Act involving
19 the conduct of a current or former employee of the school
20 district and a request is made by another school district for
21 the provision of information concerning the job performance or
22 qualifications of the current or former employee because he or
23 she is an applicant for employment with the requesting school
24 district, the general superintendent of the school district to
25 which the request is being made must disclose to the requesting
26 school district the fact that an employee of the school

1 district has made a report involving the conduct of the
2 applicant or caused a report to be made to the Department, as
3 required under this Act. Only the fact that an employee of the
4 school district has made a report involving the conduct of the
5 applicant or caused a report to be made to the Department may
6 be disclosed by the general superintendent of the school
7 district to which the request for information concerning the
8 applicant is made, and this fact may be disclosed only in cases
9 where the employee and the general superintendent have not been
10 informed by the Department that the allegations were unfounded.
11 An employee of a school district who is or has been the subject
12 of a report made pursuant to this Act during his or her
13 employment with the school district must be informed by that
14 school district that if he or she applies for employment with
15 another school district, the general superintendent of the
16 former school district, upon the request of the school district
17 to which the employee applies, shall notify that requesting
18 school district that the employee is or was the subject of such
19 a report.

20 Whenever such person is required to report under this Act
21 in his capacity as a member of the staff of a medical or other
22 public or private institution, school, facility or agency, or
23 as a member of the clergy, he shall make report immediately to
24 the Department in accordance with the provisions of this Act
25 and may also notify the person in charge of such institution,
26 school, facility or agency, or church, synagogue, temple,

1 mosque, or other religious institution, or his designated agent
2 that such report has been made. Under no circumstances shall
3 any person in charge of such institution, school, facility or
4 agency, or church, synagogue, temple, mosque, or other
5 religious institution, or his designated agent to whom such
6 notification has been made, exercise any control, restraint,
7 modification or other change in the report or the forwarding of
8 such report to the Department.

9 The privileged quality of communication between any
10 professional person required to report and his patient or
11 client shall not apply to situations involving abused or
12 neglected children and shall not constitute grounds for failure
13 to report as required by this Act.

14 A member of the clergy may claim the privilege under
15 Section 8-803 of the Code of Civil Procedure.

16 In addition to the above persons required to report
17 suspected cases of abused or neglected children, any other
18 person may make a report if such person has reasonable cause to
19 believe a child may be an abused child or a neglected child.

20 Any person who enters into employment on and after July 1,
21 1986 and is mandated by virtue of that employment to report
22 under this Act, shall sign a statement on a form prescribed by
23 the Department, to the effect that the employee has knowledge
24 and understanding of the reporting requirements of this Act.
25 The statement shall be signed prior to commencement of the
26 employment. The signed statement shall be retained by the

1 employer. The cost of printing, distribution, and filing of the
2 statement shall be borne by the employer.

3 The Department shall provide copies of this Act, upon
4 request, to all employers employing persons who shall be
5 required under the provisions of this Section to report under
6 this Act.

7 Any person who knowingly transmits a false report to the
8 Department commits the offense of disorderly conduct under
9 subsection (a)(7) of Section 26-1 of the "Criminal Code of
10 1961". Any person who violates this provision a second or
11 subsequent time shall be guilty of a Class 3 felony.

12 Any person who knowingly and willfully violates any
13 provision of this Section other than a second or subsequent
14 violation of transmitting a false report as described in the
15 preceding paragraph, is guilty of a Class A misdemeanor for a
16 first violation and a Class 4 felony for a second or subsequent
17 violation; except that if the person acted as part of a plan or
18 scheme having as its object the prevention of discovery of an
19 abused or neglected child by lawful authorities for the purpose
20 of protecting or insulating any person or entity from arrest or
21 prosecution, the person is guilty of a Class 4 felony for a
22 first offense and a Class 3 felony for a second or subsequent
23 offense (regardless of whether the second or subsequent offense
24 involves any of the same facts or persons as the first or other
25 prior offense).

26 A child whose parent, guardian or custodian in good faith

1 selects and depends upon spiritual means through prayer alone
2 for the treatment or cure of disease or remedial care may be
3 considered neglected or abused, but not for the sole reason
4 that his parent, guardian or custodian accepts and practices
5 such beliefs.

6 A child shall not be considered neglected or abused solely
7 because the child is not attending school in accordance with
8 the requirements of Article 26 of the School Code, as amended.

9 Nothing in this Act prohibits a mandated reporter who
10 reasonably believes that an animal is being abused or neglected
11 in violation of the Humane Care for Animals Act from reporting
12 animal abuse or neglect to the Department of Agriculture's
13 Bureau of Animal Health and Welfare.

14 A home rule unit may not regulate the reporting of child
15 abuse or neglect in a manner inconsistent with the provisions
16 of this Section. This Section is a limitation under subsection
17 (i) of Section 6 of Article VII of the Illinois Constitution on
18 the concurrent exercise by home rule units of powers and
19 functions exercised by the State.

20 For purposes of this Section "child abuse or neglect"
21 includes abuse or neglect of an adult resident as defined in
22 this Act.

23 (Source: P.A. 95-10, eff. 6-30-07; 95-461, eff. 8-27-07;
24 95-876, eff. 8-21-08; 95-908, eff. 8-26-08; 96-494, eff.
25 8-14-09.)

1 (325 ILCS 5/4.4a new)

2 Sec. 4.4a. Department of Children and Family Services duty
3 to report to Department of Human Services' Office of Inspector
4 General. Whenever the Department receives, by means of its
5 statewide toll-free telephone number established under Section
6 7.6 for the purpose of reporting suspected child abuse or
7 neglect or by any other means or from any mandated reporter
8 under Section 4 of this Act, a report of suspected abuse,
9 neglect, or financial exploitation of a disabled adult between
10 the ages of 18 and 59 and who is not residing in a DCFS licensed
11 facility, the Department shall instruct the reporter to contact
12 the Department of Human Services' Office of the Inspector
13 General and shall provide the reporter with the statewide,
14 24-hour toll-free telephone number established and maintained
15 by the Department of Human Services' Office of the Inspector
16 General.

17 (325 ILCS 5/7) (from Ch. 23, par. 2057)

18 Sec. 7. Time and manner of making reports. All reports of
19 suspected child abuse or neglect made under this Act shall be
20 made immediately by telephone to the central register
21 established under Section 7.7 on the single, State-wide,
22 toll-free telephone number established in Section 7.6, or in
23 person or by telephone through the nearest Department office.
24 The Department shall, in cooperation with school officials,
25 distribute appropriate materials in school buildings listing

1 the toll-free telephone number established in Section 7.6,
2 including methods of making a report under this Act. The
3 Department may, in cooperation with appropriate members of the
4 clergy, distribute appropriate materials in churches,
5 synagogues, temples, mosques, or other religious buildings
6 listing the toll-free telephone number established in Section
7 7.6, including methods of making a report under this Act.

8 Wherever the Statewide number is posted, there shall also
9 be posted the following notice:

10 "Any person who knowingly transmits a false report to the
11 Department commits the offense of disorderly conduct under
12 subsection (a) (7) of Section 26-1 of the Criminal Code of 1961.
13 A first violation of this subsection is a Class A misdemeanor,
14 punishable by a term of imprisonment for up to one year, or by
15 a fine not to exceed \$1,000, or by both such term and fine. A
16 second or subsequent violation is a Class 4 felony."

17 The report required by this Act shall include, if known,
18 the name and address of the child and his parents or other
19 persons having his custody; the child's age; the nature of the
20 child's condition including any evidence of previous injuries
21 or disabilities; and any other information that the person
22 filing the report believes might be helpful in establishing the
23 cause of such abuse or neglect and the identity of the person
24 believed to have caused such abuse or neglect. Reports made to
25 the central register through the State-wide, toll-free
26 telephone number shall be immediately transmitted by the

1 Department to the appropriate Child Protective Service Unit.
2 All such reports alleging the death of a child, serious injury
3 to a child including, but not limited to, brain damage, skull
4 fractures, subdural hematomas, and internal injuries, torture
5 of a child, malnutrition of a child, and sexual abuse to a
6 child, including, but not limited to, sexual intercourse,
7 sexual exploitation, sexual molestation, and sexually
8 transmitted disease in a child age 12 and under, shall also be
9 immediately transmitted by the Department to the appropriate
10 local law enforcement agency. The Department shall within 24
11 hours orally notify local law enforcement personnel and the
12 office of the State's Attorney of the involved county of the
13 receipt of any report alleging the death of a child, serious
14 injury to a child including, but not limited to, brain damage,
15 skull fractures, subdural hematomas, and, internal injuries,
16 torture of a child, malnutrition of a child, and sexual abuse
17 to a child, including, but not limited to, sexual intercourse,
18 sexual exploitation, sexual molestation, and sexually
19 transmitted disease in a child age twelve and under. All oral
20 reports made by the Department to local law enforcement
21 personnel and the office of the State's Attorney of the
22 involved county shall be confirmed in writing within 24 hours
23 of the oral report. All reports by persons mandated to report
24 under this Act shall be confirmed in writing to the appropriate
25 Child Protective Service Unit, which may be on forms supplied
26 by the Department, within 48 hours of any initial report.

1 Written confirmation reports from persons not required to
2 report by this Act may be made to the appropriate Child
3 Protective Service Unit. Written reports from persons required
4 by this Act to report shall be admissible in evidence in any
5 judicial proceeding relating to child abuse or neglect. Reports
6 involving known or suspected child abuse or neglect in public
7 or private residential agencies or institutions shall be made
8 and received in the same manner as all other reports made under
9 this Act.

10 For purposes of this Section "child" includes an adult
11 resident as defined in this Act.

12 (Source: P.A. 95-57, eff. 8-10-07.)

13 (325 ILCS 5/7.3) (from Ch. 23, par. 2057.3)

14 Sec. 7.3. (a) The Department shall be the sole agency
15 responsible for receiving and investigating reports of child
16 abuse or neglect made under this Act, including reports of
17 adult resident abuse or neglect as defined in this Act, except
18 where investigations by other agencies may be required with
19 respect to reports alleging the death of a child, serious
20 injury to a child or sexual abuse to a child made pursuant to
21 Sections 4.1 or 7 of this Act, and except that the Department
22 may delegate the performance of the investigation to the
23 Department of State Police, a law enforcement agency and to
24 those private social service agencies which have been
25 designated for this purpose by the Department prior to July 1,

1 1980.

2 (b) Notwithstanding any other provision of this Act, the
3 Department shall adopt rules expressly allowing law
4 enforcement personnel to investigate reports of suspected
5 child abuse or neglect concurrently with the Department,
6 without regard to whether the Department determines a report to
7 be "indicated" or "unfounded" or deems a report to be
8 "undetermined".

9 (Source: P.A. 95-57, eff. 8-10-07.)

10 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

11 Sec. 7.4. (a) The Department shall be capable of receiving
12 reports of suspected child abuse or neglect 24 hours a day, 7
13 days a week. Whenever the Department receives a report alleging
14 that a child is a truant as defined in Section 26-2a of The
15 School Code, as now or hereafter amended, the Department shall
16 notify the superintendent of the school district in which the
17 child resides and the appropriate superintendent of the
18 educational service region. The notification to the
19 appropriate officials by the Department shall not be considered
20 an allegation of abuse or neglect under this Act.

21 (a-5) Beginning January 1, 2010, the Department of Children
22 and Family Services may implement a 5-year demonstration of a
23 "differential response program" in accordance with criteria,
24 standards, and procedures prescribed by rule. The program may
25 provide that, upon receiving a report, the Department shall

1 determine whether to conduct a family assessment or an
2 investigation as appropriate to prevent or provide a remedy for
3 child abuse or neglect.

4 For purposes of this subsection (a-5), "family assessment"
5 means a comprehensive assessment of child safety, risk of
6 subsequent child maltreatment, and family strengths and needs
7 that is applied to a child maltreatment report that does not
8 allege substantial child endangerment. "Family assessment"
9 does not include a determination as to whether child
10 maltreatment occurred but does determine the need for services
11 to address the safety of family members and the risk of
12 subsequent maltreatment.

13 For purposes of this subsection (a-5), "investigation"
14 means fact-gathering related to the current safety of a child
15 and the risk of subsequent abuse or neglect that determines
16 whether a report of suspected child abuse or neglect should be
17 indicated or unfounded and whether child protective services
18 are needed.

19 Under the "differential response program" implemented
20 under this subsection (a-5), the Department:

21 (1) Shall conduct an investigation on reports
22 involving substantial child abuse or neglect.

23 (2) Shall begin an immediate investigation if, at any
24 time when it is using a family assessment response, it
25 determines that there is reason to believe that substantial
26 child abuse or neglect or a serious threat to the child's

1 safety exists.

2 (3) May conduct a family assessment for reports that do
3 not allege substantial child endangerment. In determining
4 that a family assessment is appropriate, the Department may
5 consider issues including, but not limited to, child
6 safety, parental cooperation, and the need for an immediate
7 response.

8 (4) Shall promulgate criteria, standards, and
9 procedures that shall be applied in making this
10 determination, taking into consideration the Child
11 Endangerment Risk Assessment Protocol of the Department.

12 (5) May conduct a family assessment on a report that
13 was initially screened and assigned for an investigation.

14 In determining that a complete investigation is not
15 required, the Department must document the reason for
16 terminating the investigation and notify the local law
17 enforcement agency or the Department of State Police if the
18 local law enforcement agency or Department of State Police is
19 conducting a joint investigation.

20 Once it is determined that a "family assessment" will be
21 implemented, the case shall not be reported to the central
22 register of abuse and neglect reports.

23 During a family assessment, the Department shall collect
24 any available and relevant information to determine child
25 safety, risk of subsequent abuse or neglect, and family
26 strengths.

1 Information collected includes, but is not limited to, when
2 relevant: information with regard to the person reporting the
3 alleged abuse or neglect, including the nature of the
4 reporter's relationship to the child and to the alleged
5 offender, and the basis of the reporter's knowledge for the
6 report; the child allegedly being abused or neglected; the
7 alleged offender; the child's caretaker; and other collateral
8 sources having relevant information related to the alleged
9 abuse or neglect. Information relevant to the assessment must
10 be asked for, and may include:

11 (A) The child's sex and age, prior reports of abuse or
12 neglect, information relating to developmental
13 functioning, credibility of the child's statement, and
14 whether the information provided under this paragraph (A)
15 is consistent with other information collected during the
16 course of the assessment or investigation.

17 (B) The alleged offender's age, a record check for
18 prior reports of abuse or neglect, and criminal charges and
19 convictions. The alleged offender may submit supporting
20 documentation relevant to the assessment.

21 (C) Collateral source information regarding the
22 alleged abuse or neglect and care of the child. Collateral
23 information includes, when relevant: (i) a medical
24 examination of the child; (ii) prior medical records
25 relating to the alleged maltreatment or care of the child
26 maintained by any facility, clinic, or health care

1 professional, and an interview with the treating
2 professionals; and (iii) interviews with the child's
3 caretakers, including the child's parent, guardian, foster
4 parent, child care provider, teachers, counselors, family
5 members, relatives, and other persons who may have
6 knowledge regarding the alleged maltreatment and the care
7 of the child.

8 (D) Information on the existence of domestic abuse and
9 violence in the home of the child, and substance abuse.

10 Nothing in this subsection (a-5) precludes the Department
11 from collecting other relevant information necessary to
12 conduct the assessment or investigation. Nothing in this
13 subsection (a-5) shall be construed to allow the name or
14 identity of a reporter to be disclosed in violation of the
15 protections afforded under Section 7.19 of this Act.

16 After conducting the family assessment, the Department
17 shall determine whether services are needed to address the
18 safety of the child and other family members and the risk of
19 subsequent abuse or neglect.

20 Upon completion of the family assessment, if the Department
21 concludes that no services shall be offered, then the case
22 shall be closed. If the Department concludes that services
23 shall be offered, the Department shall develop a family
24 preservation plan and offer or refer services to the family.

25 At any time during a family assessment, if the Department
26 believes there is any reason to stop the assessment and conduct

1 an investigation based on the information discovered, the
2 Department shall do so.

3 The procedures available to the Department in conducting
4 investigations under this Act shall be followed as appropriate
5 during a family assessment.

6 The Department shall arrange for an independent evaluation
7 of the "differential response program" authorized and
8 implemented under this subsection (a-5) to determine whether it
9 is meeting the goals in accordance with Section 2 of this Act.
10 The Department may adopt administrative rules necessary for the
11 execution of this Section, in accordance with Section 4 of the
12 Children and Family Services Act.

13 The demonstration conducted under this subsection (a-5)
14 shall become a permanent program on January 1, 2015, upon
15 completion of the demonstration project period.

16 (b) (1) The following procedures shall be followed in the
17 investigation of all reports of suspected abuse or neglect
18 of a child, except as provided in subsection (c) of this
19 Section.

20 (2) If, during a family assessment authorized by
21 subsection (a-5) or an investigation, it appears that the
22 immediate safety or well-being of a child is endangered,
23 that the family may flee or the child disappear, or that
24 the facts otherwise so warrant, the Child Protective
25 Service Unit shall commence an investigation immediately,
26 regardless of the time of day or night. All other

1 investigations shall be commenced within 24 hours of
2 receipt of the report. Upon receipt of a report, the Child
3 Protective Service Unit shall conduct a family assessment
4 authorized by subsection (a-5) or begin an initial
5 investigation and make an initial determination whether
6 the report is a good faith indication of alleged child
7 abuse or neglect.

8 (3) Based on an initial investigation, if the Unit
9 determines the report is a good faith indication of alleged
10 child abuse or neglect, then a formal investigation shall
11 commence and, pursuant to Section 7.12 of this Act, may or
12 may not result in an indicated report. The formal
13 investigation shall include: direct contact with the
14 subject or subjects of the report as soon as possible after
15 the report is received; an evaluation of the environment of
16 the child named in the report and any other children in the
17 same environment; a determination of the risk to such
18 children if they continue to remain in the existing
19 environments, as well as a determination of the nature,
20 extent and cause of any condition enumerated in such
21 report; the name, age and condition of other children in
22 the environment; and an evaluation as to whether there
23 would be an immediate and urgent necessity to remove the
24 child from the environment if appropriate family
25 preservation services were provided. After seeing to the
26 safety of the child or children, the Department shall

1 forthwith notify the subjects of the report in writing, of
2 the existence of the report and their rights existing under
3 this Act in regard to amendment or expungement. To fulfill
4 the requirements of this Section, the Child Protective
5 Service Unit shall have the capability of providing or
6 arranging for comprehensive emergency services to children
7 and families at all times of the day or night.

8 (4) If (i) at the conclusion of the Unit's initial
9 investigation of a report, the Unit determines the report
10 to be a good faith indication of alleged child abuse or
11 neglect that warrants a formal investigation by the Unit,
12 the Department, any law enforcement agency or any other
13 responsible agency and (ii) the person who is alleged to
14 have caused the abuse or neglect is employed or otherwise
15 engaged in an activity resulting in frequent contact with
16 children and the alleged abuse or neglect are in the course
17 of such employment or activity, then the Department shall,
18 except in investigations where the Director determines
19 that such notification would be detrimental to the
20 Department's investigation, inform the appropriate
21 supervisor or administrator of that employment or activity
22 that the Unit has commenced a formal investigation pursuant
23 to this Act, which may or may not result in an indicated
24 report. The Department shall also notify the person being
25 investigated, unless the Director determines that such
26 notification would be detrimental to the Department's

1 investigation.

2 (c) In an investigation of a report of suspected abuse or
3 neglect of a child by a school employee at a school or on
4 school grounds, the Department shall make reasonable efforts to
5 follow the following procedures:

6 (1) Investigations involving teachers shall not, to
7 the extent possible, be conducted when the teacher is
8 scheduled to conduct classes. Investigations involving
9 other school employees shall be conducted so as to minimize
10 disruption of the school day. The school employee accused
11 of child abuse or neglect may have his superior, his
12 association or union representative and his attorney
13 present at any interview or meeting at which the teacher or
14 administrator is present. The accused school employee
15 shall be informed by a representative of the Department, at
16 any interview or meeting, of the accused school employee's
17 due process rights and of the steps in the investigation
18 process. The information shall include, but need not
19 necessarily be limited to the right, subject to the
20 approval of the Department, of the school employee to
21 confront the accuser, if the accuser is 14 years of age or
22 older, or the right to review the specific allegations
23 which gave rise to the investigation, and the right to
24 review all materials and evidence that have been submitted
25 to the Department in support of the allegation. These due
26 process rights shall also include the right of the school

1 employee to present countervailing evidence regarding the
2 accusations.

3 (2) If a report of neglect or abuse of a child by a
4 teacher or administrator does not involve allegations of
5 sexual abuse or extreme physical abuse, the Child
6 Protective Service Unit shall make reasonable efforts to
7 conduct the initial investigation in coordination with the
8 employee's supervisor.

9 If the Unit determines that the report is a good faith
10 indication of potential child abuse or neglect, it shall
11 then commence a formal investigation under paragraph (3) of
12 subsection (b) of this Section.

13 (3) If a report of neglect or abuse of a child by a
14 teacher or administrator involves an allegation of sexual
15 abuse or extreme physical abuse, the Child Protective Unit
16 shall commence an investigation under paragraph (2) of
17 subsection (b) of this Section.

18 (c-5) In any instance in which a report is made or caused
19 to made by a school district employee involving the conduct of
20 a person employed by the school district, at the time the
21 report was made, as required under Section 4 of this Act, the
22 Child Protective Service Unit shall send a copy of its final
23 finding report to the general superintendent of that school
24 district.

25 (d) If the Department has contact with an employer, or with
26 a religious institution or religious official having

1 supervisory or hierarchical authority over a member of the
2 clergy accused of the abuse of a child, in the course of its
3 investigation, the Department shall notify the employer or the
4 religious institution or religious official, in writing, when a
5 report is unfounded so that any record of the investigation can
6 be expunged from the employee's or member of the clergy's
7 personnel or other records. The Department shall also notify
8 the employee or the member of the clergy, in writing, that
9 notification has been sent to the employer or to the
10 appropriate religious institution or religious official
11 informing the employer or religious institution or religious
12 official that the Department's investigation has resulted in an
13 unfounded report.

14 (e) Upon request by the Department, the Department of State
15 Police and law enforcement agencies are authorized to provide
16 criminal history record information as defined in the Illinois
17 Uniform Conviction Information Act and information maintained
18 in the adjudicatory and dispositional record system as defined
19 in Section 2605-355 of the Department of State Police Law (20
20 ILCS 2605/2605-355) to properly designated employees of the
21 Department of Children and Family Services if the Department
22 determines the information is necessary to perform its duties
23 under the Abused and Neglected Child Reporting Act, the Child
24 Care Act of 1969, and the Children and Family Services Act. The
25 request shall be in the form and manner required by the
26 Department of State Police. Any information obtained by the

1 Department of Children and Family Services under this Section
2 is confidential and may not be transmitted outside the
3 Department of Children and Family Services other than to a
4 court of competent jurisdiction or unless otherwise authorized
5 by law. Any employee of the Department of Children and Family
6 Services who transmits confidential information in violation
7 of this Section or causes the information to be transmitted in
8 violation of this Section is guilty of a Class A misdemeanor
9 unless the transmittal of the information is authorized by this
10 Section or otherwise authorized by law.

11 (f) For purposes of this Section "child abuse or neglect"
12 includes abuse or neglect of an adult resident as defined in
13 this Act.

14 (Source: P.A. 95-908, eff. 8-26-08; 96-760, eff. 1-1-10.)

15 (325 ILCS 5/7.7) (from Ch. 23, par. 2057.7)

16 Sec. 7.7. There shall be a central register of all cases of
17 suspected child abuse or neglect reported and maintained by the
18 Department under this Act. Through the recording of initial,
19 preliminary, and final reports, the central register shall be
20 operated in such a manner as to enable the Department to: (1)
21 immediately identify and locate prior reports of child abuse or
22 neglect; (2) continuously monitor the current status of all
23 reports of child abuse or neglect being provided services under
24 this Act; and (3) regularly evaluate the effectiveness of
25 existing laws and programs through the development and analysis

1 of statistical and other information.

2 The Department shall maintain in the central register a
3 listing of unfounded reports where the subject of the unfounded
4 report requests that the record not be expunged because the
5 subject alleges an intentional false report was made. Such a
6 request must be made by the subject in writing to the
7 Department, within 10 days of the investigation.

8 The Department shall also maintain in the central register
9 a listing of unfounded reports where the report was classified
10 as a priority one or priority two report in accordance with the
11 Department's rules or the report was made by a person mandated
12 to report suspected abuse or neglect under this Act.

13 The Department shall maintain in the central register for 3
14 years a listing of unfounded reports involving the death of a
15 child, the sexual abuse of a child, or serious physical injury
16 to a child as defined by the Department in rules.

17 For purposes of this Section "child abuse or neglect"
18 includes abuse or neglect of an adult resident as defined in
19 this Act.

20 (Source: P.A. 90-15, eff. 6-13-97.)

21 (325 ILCS 5/7.10) (from Ch. 23, par. 2057.10)

22 Sec. 7.10. Upon the receipt of each oral report made under
23 this Act, the Child Protective Service Unit shall immediately
24 transmit a copy thereof to the state central register of child
25 abuse and neglect. A preliminary report from a Child Protective

1 Service Unit shall be made at the time of the first of any
2 30-day extensions made pursuant to Section 7.12 and shall
3 describe the status of the related investigation up to that
4 time, including an evaluation of the present family situation
5 and danger to the child or children, corrections or up-dating
6 of the initial report, and actions taken or contemplated.

7 For purposes of this Section "child" includes an adult
8 resident as defined in this Act.

9 (Source: P.A. 86-904.)

10 (325 ILCS 5/7.14) (from Ch. 23, par. 2057.14)

11 Sec. 7.14. All reports in the central register shall be
12 classified in one of three categories: "indicated",
13 "unfounded" or "undetermined", as the case may be. After the
14 report is classified, the person making the classification
15 shall determine whether the child named in the report is the
16 subject of an action under Article II of the Juvenile Court Act
17 of 1987. If the child is the subject of an action under Article
18 II of the Juvenile Court Act, the Department shall transmit a
19 copy of the report to the guardian ad litem appointed for the
20 child under Section 2-17 of the Juvenile Court Act. All
21 information identifying the subjects of an unfounded report
22 shall be expunged from the register forthwith, except as
23 provided in Section 7.7. Unfounded reports may only be made
24 available to the Child Protective Service Unit when
25 investigating a subsequent report of suspected abuse or

1 maltreatment involving a child named in the unfounded report;
2 and to the subject of the report, provided that the subject
3 requests the report within 60 days of being notified that the
4 report was unfounded. The Child Protective Service Unit shall
5 not indicate the subsequent report solely based upon the
6 existence of the prior unfounded report or reports.
7 Notwithstanding any other provision of law to the contrary, an
8 unfounded report shall not be admissible in any judicial or
9 administrative proceeding or action. Identifying information
10 on all other records shall be removed from the register no
11 later than 5 years after the report is indicated. However, if
12 another report is received involving the same child, his
13 sibling or offspring, or a child in the care of the persons
14 responsible for the child's welfare, or involving the same
15 alleged offender, the identifying information may be
16 maintained in the register until 5 years after the subsequent
17 case or report is closed.

18 Notwithstanding any other provision of this Section,
19 identifying information in indicated reports involving serious
20 physical injury to a child as defined by the Department in
21 rules, may be retained longer than 5 years after the report is
22 indicated or after the subsequent case or report is closed, and
23 may not be removed from the register except as provided by the
24 Department in rules. Identifying information in indicated
25 reports involving sexual penetration of a child, sexual
26 molestation of a child, sexual exploitation of a child, torture

1 of a child, or the death of a child, as defined by the
2 Department in rules, shall be retained for a period of not less
3 than 50 years after the report is indicated or after the
4 subsequent case or report is closed.

5 For purposes of this Section "child" includes an adult
6 resident as defined in this Act.

7 (Source: P.A. 94-160, eff. 7-11-05.)

8 (325 ILCS 5/8.1) (from Ch. 23, par. 2058.1)

9 Sec. 8.1. If the Child Protective Service Unit determines
10 after investigating a report that there is no credible evidence
11 that a child is abused or neglected, it shall deem the report
12 to be an unfounded report. However, if it appears that the
13 child or family could benefit from other social services, the
14 local service may suggest such services, including services
15 under Section 8.2, for the family's voluntary acceptance or
16 refusal. If the family declines such services, the Department
17 shall take appropriate action in keeping with the best interest
18 of the child, including referring a member of the child's
19 family to a facility licensed by the Department of Human
20 Services or the Department of Public Health. For purposes of
21 this Section "child" includes an adult resident as defined in
22 this Act.

23 (Source: P.A. 88-85; 88-487; 88-670, eff. 12-2-94; 89-507, eff.
24 7-1-97.)

1 (325 ILCS 5/8.5) (from Ch. 23, par. 2058.5)

2 Sec. 8.5. The Child Protective Service Unit shall maintain
3 a local child abuse and neglect index of all cases reported
4 under this Act which will enable it to determine the location
5 of case records and to monitor the timely and proper
6 investigation and disposition of cases. The index shall include
7 the information contained in the initial, progress, and final
8 reports required under this Act, and any other appropriate
9 information. For purposes of this Section "child abuse and
10 neglect" includes abuse or neglect of an adult resident as
11 defined in this Act.

12 (Source: P.A. 81-1077.)

13 (325 ILCS 5/9) (from Ch. 23, par. 2059)

14 Sec. 9. Any person, institution or agency, under this Act,
15 participating in good faith in the making of a report or
16 referral, or in the investigation of such a report or referral
17 or in the taking of photographs and x-rays or in the retaining
18 a child in temporary protective custody or in making a
19 disclosure of information concerning reports of child abuse and
20 neglect in compliance with Sections 4.2 and 11.1 of this Act or
21 Section 4 of this Act, as it relates to disclosure by school
22 personnel and except in cases of wilful or wanton misconduct,
23 shall have immunity from any liability, civil, criminal or that
24 otherwise might result by reason of such actions. For the
25 purpose of any proceedings, civil or criminal, the good faith

1 of any persons required to report or refer, or permitted to
2 report, cases of suspected child abuse or neglect or permitted
3 to refer individuals under this Act or required to disclose
4 information concerning reports of child abuse and neglect in
5 compliance with Sections 4.2 and 11.1 of this Act, shall be
6 presumed. For purposes of this Section "child abuse and
7 neglect" includes abuse or neglect of an adult resident as
8 defined in this Act.

9 (Source: P.A. 95-908, eff. 8-26-08.)

10 (325 ILCS 5/9.1) (from Ch. 23, par. 2059.1)

11 Sec. 9.1. Employer discrimination. No employer shall
12 discharge, demote or suspend, or threaten to discharge, demote
13 or suspend, or in any manner discriminate against any employee
14 who makes any good faith oral or written report of suspected
15 child abuse or neglect, or who is or will be a witness or
16 testify in any investigation or proceeding concerning a report
17 of suspected child abuse or neglect. For purposes of this
18 Section "child abuse or neglect" includes abuse or neglect of
19 an adult resident as defined in this Act.

20 (Source: P.A. 86-904.)

21 (325 ILCS 5/11) (from Ch. 23, par. 2061)

22 Sec. 11. All records concerning reports of child abuse and
23 neglect or records concerning referrals under this Act and all
24 records generated as a result of such reports or referrals,

1 shall be confidential and shall not be disclosed except as
2 specifically authorized by this Act or other applicable law. It
3 is a Class A misdemeanor to permit, assist, or encourage the
4 unauthorized release of any information contained in such
5 reports, referrals or records.

6 Nothing contained in this Section prevents the sharing or
7 disclosure of records relating or pertaining to the death of a
8 minor under the care of or receiving services from the
9 Department of Children and Family Services and under the
10 jurisdiction of the juvenile court with the juvenile court, the
11 State's Attorney, and the minor's attorney. For purposes of
12 this Section "child abuse and neglect" includes abuse or
13 neglect of an adult resident as defined in this Act.

14 (Source: P.A. 90-15, eff. 6-13-97.)

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.