



Sen. Don Harmon

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1 AMENDMENT TO HOUSE BILL 5132

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

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

6 (20 ILCS 1305/1-17)

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

8 Sec. 1-17. Inspector General.

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

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

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

13 "Agency" or "community agency" means (i) a community agency  
14 licensed, funded, or certified by the Department or ~~, 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 or ~~, but not licensed or certified~~  
19 by any other human services agency of the State, to provide  
20 mental 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 or certified or licensed by any  
8 other State agency.

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

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

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

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

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

1 distress or maladaptive behavior, for any individual present.

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

4 "Mentally ill" means having a mental illness.

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

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

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

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

1 identified during an investigation.

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

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

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

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

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

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

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

26 (d) Operation and appropriation. The Inspector General

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

7 (e) Powers and duties. The Inspector General shall  
8 investigate reports of suspected mental abuse, physical abuse,  
9 sexual abuse, neglect, or financial exploitation of  
10 individuals in any mental health or developmental disabilities  
11 facility or agency and shall have authority to take immediate  
12 action to prevent any one or more of the following from  
13 happening to individuals under its jurisdiction: mental abuse,  
14 physical abuse, sexual abuse, neglect, or financial  
15 exploitation. Investigations shall be commenced no later than  
16 24 hours after the report is received by the Inspector General.

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

1 Inspector General shall have no authority to investigate  
2 alleged violations of the State Officials and Employees Ethics  
3 Act. Allegations of misconduct under the State Officials and  
4 Employees Ethics Act shall be referred to the Office of the  
5 Governor's Executive Inspector General for investigation.

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

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



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

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

22 (i) Duty to cooperate.

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

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

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

26 (j) Subpoena powers. The Inspector General shall have the

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

13 (k) Reporting allegations and deaths.

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

1 requirements is guilty of a Class A misdemeanor.

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

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

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

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

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

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

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

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

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

14 (n) Written responses and reconsideration requests.

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

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

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

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

25          (q) Action by facility or agency. Within 30 days of the  
26          date the Secretary approves the written response or directs

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

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

23 (1) Appointment of on-site monitors.

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

26 (3) Closure of units.



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

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

10          (s) Health care worker registry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 beliefs or practices.

2 (z) The General Assembly recognizes a need to protect from  
3 abuse and neglect clients with developmental disabilities and  
4 adult students with disabilities in public schools who are not  
5 covered by any administrative investigative entity. Therefore,  
6 OIG shall have the authority to investigate and report on  
7 allegations of abuse or neglect of clients with developmental  
8 disabilities. Additionally, when an allegation of abuse or  
9 neglect is received by OIG regarding an adult student with  
10 disabilities, OIG shall make the appropriate law enforcement  
11 referral. The following provisions apply only to  
12 investigations and referrals conducted pursuant to this  
13 subsection (z). The provisions contained in subsections (a)  
14 through (y) of this Section do not apply to this subsection  
15 (z).

16 (1) Definitions. As used in this subsection:

17 "Abuse" means a non-accidental act committed by an  
18 employee, parent, or care giver against a client with  
19 developmental disabilities or an adult student with  
20 disabilities that results in physical injury or contact of  
21 a sexual nature.

22 "Adult student with disabilities" means an adult  
23 public school student between the ages of 18 and 21 years,  
24 inclusive to the day before the student's 22nd birthday,  
25 who is identified as having multiple disabilities as that  
26 term is defined in 34 CFR 300.8(c)(7) and who is enrolled



1 in an individualized education program as that term is  
2 defined in 34 CFR 300.320.

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

6 "Allegation" means an assertion, complaint, suspicion,  
7 or incident of abuse or neglect by an employee, parent, or  
8 care giver.

9 "Client with a developmental disability" means a  
10 person over the age of 18 living in a residential facility  
11 licensed by the Department of Children and Family Services  
12 whose residential placement is funded by the Department of  
13 Human Services.

14 "Credible evidence" means any evidence that relates to  
15 the allegation or incident and that is considered  
16 believable and reliable.

17 "DCFS" means the Department of Children and Family  
18 Services.

19 "Department" means the Department of Human Services.

20 "Employee" means any person employed at a facility  
21 where the abuse or neglect allegedly occurred, or any  
22 person employed by the school district in which the abuse  
23 or neglect allegedly occurred. "Employee" also includes  
24 contractors, subcontractors, employees of contractors or  
25 subcontractors, and volunteers.

26 "Facility" means a DCFS licensed residential facility.

1           "Finding" means OIG's determination regarding whether  
2           an allegation of abuse or neglect is substantiated,  
3           unsubstantiated, or unfounded.

4           "Inspector General" means the Inspector General from  
5           the Department of Human Services' Office of the Inspector  
6           General.

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

13           "Neglect" means failure by an employee, parent, or care  
14           giver to provide adequate food, shelter, clothing,  
15           personal care, or medical care to ensure the overall  
16           health, well-being or safety of a client with a  
17           developmental disability or an adult student with  
18           disabilities.

19           "OIG" means the Department of Human Services' Office of  
20           the Inspector General.

21           "Parent or care giver" means the parent of an adult  
22           student with disabilities or any other person responsible  
23           for the student's welfare or any individual with ongoing  
24           access to the student.

25           "Raw data" means data that includes, but is not limited  
26           to, any one or more of the following used to compile the

1 investigative report: the initial complaint, witness  
2 statements, photographs, investigator's notes, police  
3 reports, or incident reports.

4 "Required reporter" means any employee as defined in  
5 this subsection (z).

6 "School" means any public school in the State of  
7 Illinois.

8 "Secretary" means the Secretary of the Department of  
9 Human Services.

10 "Substantiated" means there is a preponderance of the  
11 evidence to support the allegation.

12 "Unfounded" means there is no credible evidence to  
13 support the allegation.

14 "Unsubstantiated" means there is credible evidence,  
15 but less than a preponderance to support the allegation.

16 (2) Duty to Cooperate. The Inspector General shall at  
17 all times be granted access to any DCFS-licensed facility  
18 where a client with a developmental disability resides for  
19 the purpose of investigating any allegation. The Inspector  
20 General's authority in these settings is limited to  
21 investigating allegations of abuse or neglect. No person  
22 shall obstruct or impede OIG's access to a client with a  
23 developmental disability, and shall not obstruct or impede  
24 the investigation of abuse or neglect. If a person does so  
25 obstruct or impede access to the alleged victim, local law  
26 enforcement agencies shall take all appropriate action to

1 assist OIG in performing its duties.

2 (3) Reporting allegations. Any required reporter who  
3 has reasonable cause to believe abuse or neglect of a  
4 client with a developmental disability or an adult student  
5 with disabilities occurred shall report this to the OIG  
6 Hotline within 4 hours of discovery.

7 (4) Reporting criminal acts. If, during the course of  
8 an investigation of abuse or neglect, OIG determines there  
9 is credible evidence that a crime has been committed, the  
10 incident shall be reported to the appropriate law  
11 enforcement agency and OIG, the facility, and the school  
12 shall defer to that agency regarding the propriety of any  
13 further investigative activity.

14 (5) Investigative reports. Upon completion of an  
15 investigation, OIG shall issue an investigative report  
16 identifying whether the allegations are substantiated,  
17 unsubstantiated, or unfounded. Within 10 business days  
18 after the transmittal of a completed investigative report  
19 substantiating the allegation, the Inspector General shall  
20 provide a copy of the investigative report to the  
21 Secretary, the Department's Director of the Division of  
22 Developmental Disabilities, the Director of the agency  
23 that owns or operates the facility where the abuse or  
24 neglect occurred, and the licensing bureau of DCFS. In a  
25 substantiated case, the investigative report shall include  
26 any mitigating or aggravating circumstances that were

1 identified during the investigation and a redacted copy of  
2 the investigative report shall be provided to the accused.  
3 All investigative reports prepared by OIG shall be  
4 considered confidential and shall not be released except as  
5 otherwise provided by the law of this State or as required  
6 under applicable federal law. Unsubstantiated and  
7 unfounded reports shall not be disclosed except with a  
8 court order. Raw data used to compile the investigative  
9 report shall not be subject to release unless required by  
10 law or a court order.

11 (6) Disclosure of the finding by the Inspector General.  
12 The Inspector General shall disclose the finding of an  
13 investigation to the following persons: (i) the Governor,  
14 (ii) the Secretary, (iii) the Director of the agency that  
15 owns or operates the facility, (iv) the Department's  
16 Director of the Division of Developmental Disabilities,  
17 (v) the alleged victim or guardian if applicable, and (vi)  
18 the accused. The information shall include whether the  
19 allegations were substantiated, unsubstantiated, or  
20 unfounded.

21 (7) Law enforcement referrals. Upon receipt of a  
22 reportable allegation regarding an adult student with  
23 disabilities, OIG shall make an expeditious referral to the  
24 respective law enforcement entity.

25 (8) Limitations. OIG shall have no involvement in any  
26 disciplinary proceeding except to provide testimony

1 pursuant to a subpoena. OIG shall be notified in writing of  
2 any action taken as a result of a substantiated finding,  
3 but shall have no involvement in reviewing or implementing  
4 actions taken as a result of the finding.

5 (9) Sanctions.

6 (A) When necessary, sanctions may be imposed by the  
7 licensing entity of the facility and shall be designed  
8 to prevent further acts of abuse or neglect, and may  
9 include any one or more of the following:

10 (i) Appointment of on-site monitors.

11 (ii) Transfer or relocation of the victim.

12 (iii) Closure of a facility.

13 (iv) Termination of any one or more of the  
14 following: licensing, funding, certification, or  
15 licensing enforcement by the licensing entity of  
16 the facility, if any, up to and including  
17 revocation of licensure or an administrative order  
18 of closure, or both.

19 (B) The Secretary is authorized to withdraw  
20 funding for any facility where an allegation  
21 concerning a client with a developmental disability  
22 was substantiated.

23 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;  
24 96-555, eff. 8-18-09; revised 9-25-09.)

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

1           Sec. 1-17. Inspector General.

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

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

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

1 certified by the Department or ~~, but not licensed or certified~~  
2 by any other human services agency of the State, to provide  
3 mental health service or developmental disabilities service.

4 "Aggravating circumstance" means a factor that is  
5 attendant to a finding and that tends to compound or increase  
6 the culpability of the accused.

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

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

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

18 "Department" means the Department of Human Services.

19 "Developmentally disabled" means having a developmental  
20 disability.

21 "Developmental disability" means "developmental  
22 disability" as defined in the Mental Health and Developmental  
23 Disabilities Code.

24 "Egregious neglect" means a finding of neglect as  
25 determined by the Inspector General that (i) represents a gross  
26 failure to adequately provide for, or a callused indifference



1 to, the health, safety, or medical needs of an individual and  
2 (ii) results in an individual's death or other serious  
3 deterioration of an individual's physical condition or mental  
4 condition.

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

14 "Facility" or "State-operated facility" means a mental  
15 health facility or developmental disabilities facility  
16 operated by the Department or certified or licensed by any  
17 other State agency.

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

22 "Finding" means the Office of Inspector General's  
23 determination regarding whether an allegation is  
24 substantiated, unsubstantiated, or unfounded.

25 "Health care worker registry" or "registry" means the  
26 health care worker registry created by the Nursing Home Care

1 Act.

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

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

11 "Mental illness" means "mental illness" as defined in the  
12 Mental Health and Developmental Disabilities Code.

13 "Mentally ill" means having a mental illness.

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

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

1 substantial risk.

2 "Physical abuse" means an employee's non-accidental and  
3 inappropriate contact with an individual that causes bodily  
4 harm. "Physical abuse" includes actions that cause bodily harm  
5 as a result of an employee directing an individual or person to  
6 physically abuse another individual.

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

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

15 "Secretary" means the Chief Administrative Officer of the  
16 Department.

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

23 "Substantiated" means there is a preponderance of the  
24 evidence to support the allegation.

25 "Unfounded" means there is no credible evidence to support  
26 the allegation.

1 "Unsubstantiated" means there is credible evidence, but  
2 less than a preponderance of evidence to support the  
3 allegation.

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

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

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

26 Upon written request of an agency of this State, the Inspector

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

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

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

16 (h) Training programs. The Inspector General shall (i)  
17 establish a comprehensive program to ensure that every person  
18 authorized to conduct investigations receives ongoing training  
19 relative to investigation techniques, communication skills,  
20 and the appropriate means of interacting with persons receiving  
21 treatment for mental illness, developmental disability, or  
22 both mental illness and developmental disability, and (ii)  
23 establish and conduct periodic training programs for facility  
24 and agency employees concerning the prevention and reporting of  
25 any one or more of the following: mental abuse, physical abuse,  
26 sexual abuse, neglect, egregious neglect, or financial

1 exploitation. Nothing in this Section shall be deemed to  
2 prevent the Office of Inspector General from conducting any  
3 other training as determined by the Inspector General to be  
4 necessary or helpful.

5 (i) Duty to cooperate.

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

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

1 other employees to provide false information to an Office  
2 of the Inspector General investigator, (v) destroying  
3 evidence, (vi) withholding evidence, or (vii) otherwise  
4 obstructing an Office of the Inspector General  
5 investigation. Additionally, any employee who, during an  
6 unannounced site visit or written response compliance  
7 check, fails to cooperate with requests from the Office of  
8 the Inspector General is in violation of this Act.

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

22 (k) Reporting allegations and deaths.

23 (1) Allegations. If an employee witnesses, is told of,  
24 or has reason to believe an incident of mental abuse,  
25 physical abuse, sexual abuse, neglect, or financial  
26 exploitation has occurred, the employee, agency, or



1 facility shall report the allegation by phone to the Office  
2 of the Inspector General hotline according to the agency's  
3 or facility's procedures, but in no event later than 4  
4 hours after the initial discovery of the incident,  
5 allegation, or suspicion of any one or more of the  
6 following: mental abuse, physical abuse, sexual abuse,  
7 neglect, or financial exploitation. A required reporter as  
8 defined in subsection (b) of this Section who knowingly or  
9 intentionally fails to comply with these reporting  
10 requirements is guilty of a Class A misdemeanor.

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

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

18 (ii) Any death of an individual occurring within 24  
19 hours after deflection from a residential program or  
20 facility.

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

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

1 reporter.

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

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

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

23 (n) Written responses and reconsideration requests.

24 (1) Written responses. Within 30 calendar days from  
25 receipt of a substantiated investigative report or an  
26 investigative report which contains recommendations,

1 absent a reconsideration request, the facility or agency  
2 shall file a written response that addresses, in a concise  
3 and reasoned manner, the actions taken to: (i) protect the  
4 individual; (ii) prevent recurrences; and (iii) eliminate  
5 the problems identified. The response shall include the  
6 implementation and completion dates of such actions. If the  
7 written response is not filed within the allotted 30  
8 calendar day period, the Secretary shall determine the  
9 appropriate corrective action to be taken.

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

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

24 (p) Secretary review. Upon review of the Inspector  
25 General's investigative report and any agency's or facility's  
26 written response, the Secretary shall accept or reject the

1 written response and notify the Inspector General of that  
2 determination. The Secretary may further direct that other  
3 administrative action be taken, including, but not limited to,  
4 any one or more of the following: (i) additional site visits,  
5 (ii) training, (iii) provision of technical assistance  
6 relative to administrative needs, licensure or certification,  
7 or (iv) the imposition of appropriate sanctions.

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

26 (r) Sanctions. Sanctions, if imposed by the Secretary under

1 Subdivision (p)(iv) of this Section, shall be designed to  
2 prevent further acts of mental abuse, physical abuse, sexual  
3 abuse, neglect, egregious neglect, or financial exploitation  
4 or some combination of one or more of those acts at a facility  
5 or agency, and may include any one or more of the following:

6 (1) Appointment of on-site monitors.

7 (2) Transfer or relocation of an individual or  
8 individuals.

9 (3) Closure of units.

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

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

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, ~~MR/DD Community~~  
23 ~~Care Act~~ the identity and finding of each employee of a  
24 facility or agency against whom there is a final  
25 investigative report containing a substantiated allegation  
26 of physical or sexual abuse or egregious neglect of an

1 individual. ~~MR/DD Community Care Act~~

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

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

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

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

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



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

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

26 (t) Review of Administrative Decisions. The Department

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

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

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

26 The Board shall meet quarterly, and may hold other meetings

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

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

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

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

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

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

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

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

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

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

1 care professionals.

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

12 (z) The General Assembly recognizes a need to protect from  
13 abuse and neglect clients with developmental disabilities and  
14 adult students with disabilities in public schools who are not  
15 covered by any administrative investigative entity. Therefore,  
16 OIG shall have the authority to investigate and report on  
17 allegations of abuse or neglect of clients with developmental  
18 disabilities. Additionally, when an allegation of abuse or  
19 neglect is received by OIG regarding an adult student with  
20 disabilities, OIG shall make the appropriate law enforcement  
21 referral. The following provisions apply only to  
22 investigations and referrals conducted pursuant to this  
23 subsection (z). The provisions contained in subsections (a)  
24 through (y) of this Section do not apply to this subsection  
25 (z).

26 (1) Definitions. As used in this subsection:

1           "Abuse" means a non-accidental act committed by an  
2           employee, parent, or care giver against a client with  
3           developmental disabilities or an adult student with  
4           disabilities that results in physical injury or contact of  
5           a sexual nature.

6           "Adult student with disabilities" means an adult  
7           public school student between the ages of 18 and 21 years,  
8           inclusive to the day before the student's 22nd birthday,  
9           who is identified as having multiple disabilities as that  
10           term is defined in 34 CFR 300.8(c)(7) and who is enrolled  
11           in an individualized education program as that term is  
12           defined in 34 CFR 300.320.

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

16           "Allegation" means an assertion, complaint, suspicion,  
17           or incident of abuse or neglect by an employee, parent, or  
18           care giver.

19           "Client with a developmental disability" means a  
20           person over the age of 18 living in a residential facility  
21           licensed by the Department of Children and Family Services  
22           whose residential placement is funded by the Department of  
23           Human Services.

24           "Credible evidence" means any evidence that relates to  
25           the allegation or incident and that is considered  
26           believable and reliable.

1           "DCFS" means the Department of Children and Family  
2           Services.

3           "Department" means the Department of Human Services.

4           "Employee" means any person employed at a facility  
5           where the abuse or neglect allegedly occurred, or any  
6           person employed by the school district in which the abuse  
7           or neglect allegedly occurred. "Employee" also includes  
8           contractors, subcontractors, employees of contractors or  
9           subcontractors, and volunteers.

10          "Facility" means a DCFS licensed residential facility.

11          "Finding" means OIG's determination regarding whether  
12          an allegation of abuse or neglect is substantiated,  
13          unsubstantiated, or unfounded.

14          "Inspector General" means the Inspector General from  
15          the Department of Human Services' Office of the Inspector  
16          General.

17          "Mitigating circumstance" means a condition that is  
18          attendant to a finding and does not excuse or justify the  
19          conduct in question, but may be considered in evaluating  
20          the severity of the conduct, the culpability of the  
21          accused, or both the severity of the conduct and the  
22          culpability of the accused.

23          "Neglect" means failure by an employee, parent, or care  
24          giver to provide adequate food, shelter, clothing,  
25          personal care, or medical care to ensure the overall  
26          health, well-being or safety of a client with a

1 developmental disability or an adult student with  
2 disabilities.

3 "OIG" means the Department of Human Services' Office of  
4 the Inspector General.

5 "Parent or care giver" means the parent of an adult  
6 student with disabilities or any other person responsible  
7 for the student's welfare or any individual with ongoing  
8 access to the student.

9 "Raw data" means data that includes, but is not limited  
10 to, any one or more of the following used to compile the  
11 investigative report: the initial complaint, witness  
12 statements, photographs, investigator's notes, police  
13 reports, or incident reports.

14 "Required reporter" means any employee as defined in  
15 this subsection (z).

16 "School" means any public school in the State of  
17 Illinois.

18 "Secretary" means the Secretary of the Department of  
19 Human Services.

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

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

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

26 (2) Duty to Cooperate. The Inspector General shall at



1 all times be granted access to any DCFS-licensed facility  
2 where a client with a developmental disability resides for  
3 the purpose of investigating any allegation. The Inspector  
4 General's authority in these settings is limited to  
5 investigating allegations of abuse or neglect. No person  
6 shall obstruct or impede OIG's access to a client with a  
7 developmental disability, and shall not obstruct or impede  
8 the investigation of abuse or neglect. If a person does so  
9 obstruct or impede access to the alleged victim, local law  
10 enforcement agencies shall take all appropriate action to  
11 assist OIG in performing its duties.

12 (3) Reporting allegations. Any required reporter who  
13 has reasonable cause to believe abuse or neglect of a  
14 client with a developmental disability or an adult student  
15 with disabilities occurred shall report this to the OIG  
16 Hotline within 4 hours of discovery.

17 (4) Reporting criminal acts. If, during the course of  
18 an investigation of abuse or neglect, OIG determines there  
19 is credible evidence that a crime has been committed, the  
20 incident shall be reported to the appropriate law  
21 enforcement agency and OIG, the facility, and the school  
22 shall defer to that agency regarding the propriety of any  
23 further investigative activity.

24 (5) Investigative reports. Upon completion of an  
25 investigation, OIG shall issue an investigative report  
26 identifying whether the allegations are substantiated,

1 unsubstantiated, or unfounded. Within 10 business days  
2 after the transmittal of a completed investigative report  
3 substantiating the allegation, the Inspector General shall  
4 provide a copy of the investigative report to the  
5 Secretary, the Department's Director of the Division of  
6 Developmental Disabilities, the Director of the agency  
7 that owns or operates the facility where the abuse or  
8 neglect occurred, and the licensing bureau of DCFS. In a  
9 substantiated case, the investigative report shall include  
10 any mitigating or aggravating circumstances that were  
11 identified during the investigation and a redacted copy of  
12 the investigative report shall be provided to the accused.  
13 All investigative reports prepared by OIG shall be  
14 considered confidential and shall not be released except as  
15 otherwise provided by the law of this State or as required  
16 under applicable federal law. Unsubstantiated and  
17 unfounded reports shall not be disclosed except with a  
18 court order. Raw data used to compile the investigative  
19 report shall not be subject to release unless required by  
20 law or a court order.

21 (6) Disclosure of the finding by the Inspector General.  
22 The Inspector General shall disclose the finding of an  
23 investigation to the following persons: (i) the Governor,  
24 (ii) the Secretary, (iii) the Director of the agency that  
25 owns or operates the facility, (iv) the Department's  
26 Director of the Division of Developmental Disabilities,

1       (v) the alleged victim or guardian if applicable, and (vi)  
2       the accused. The information shall include whether the  
3       allegations were substantiated, unsubstantiated, or  
4       unfounded.

5       (7) Law enforcement referrals. Upon receipt of a  
6       reportable allegation regarding an adult student with  
7       disabilities, OIG shall make an expeditious referral to the  
8       respective law enforcement entity.

9       (8) Limitations. OIG shall have no involvement in any  
10       disciplinary proceeding except to provide testimony  
11       pursuant to a subpoena. OIG shall be notified in writing of  
12       any action taken as a result of a substantiated finding,  
13       but shall have no involvement in reviewing or implementing  
14       actions taken as a result of the finding.

15       (9) Sanctions.

16       (A) When necessary, sanctions may be imposed by the  
17       licensing entity of the facility and shall be designed  
18       to prevent further acts of abuse or neglect, and may  
19       include any one or more of the following:

20               (i) Appointment of on-site monitors.

21               (ii) Transfer or relocation of the victim.

22               (iii) Closure of a facility.

23               (iv) Termination of any one or more of the  
24       following: licensing, funding, certification, or  
25       licensing enforcement by the licensing entity of  
26       the facility, if any, up to and including

1           revocation of licensure or an administrative order  
2           of closure, or both.

3           (B) The Secretary is authorized to withdraw  
4           funding for any facility where an allegation  
5           concerning a client with a developmental disability  
6           was substantiated.

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

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

11           (20 ILCS 2435/35) (from Ch. 23, par. 3395-35)

12          Sec. 35. Assessment of reports.

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

1 substantial risk of death or great bodily harm, it shall  
2 immediately secure or provide emergency protective services  
3 for purposes of preventing further abuse, neglect, or  
4 exploitation, and for safeguarding the welfare of the person.  
5 Such services must be provided in the least restrictive  
6 environment commensurate with the adult with disabilities'  
7 needs.

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

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

20 (b) (Blank).

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

1 emergency.

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

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

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

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

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

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

25 Section 15. The Abused and Neglected Child Reporting Act is

1 amended by changing Sections 2, 3, 4, 7, 7.3, 7.4, 7.7, 7.10,  
2 7.14, 8.1, 8.5, 9, 9.1, and 11 and by adding Section 4.4a as  
3 follows:

4 (325 ILCS 5/2) (from Ch. 23, par. 2052)

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

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

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

1 (325 ILCS 5/3) (from Ch. 23, par. 2053)

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

4 "Adult resident" means any person between 18 and 22 years  
5 of age who resides in any facility licensed by the Department  
6 under the Child Care Act of 1969. For purposes of this Act, the  
7 criteria set forth in the definitions of "abused child" and  
8 "neglected child" shall be used in determining whether an adult  
9 resident is abused or neglected.

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

13 "Department" means Department of Children and Family  
14 Services.

15 "Local law enforcement agency" means the police of a city,  
16 town, village or other incorporated area or the sheriff of an  
17 unincorporated area or any sworn officer of the Illinois  
18 Department of State Police.

19 "Abused child" means a child whose parent or immediate  
20 family member, or any person responsible for the child's  
21 welfare, or any individual residing in the same home as the  
22 child, or a paramour of the child's parent:

23 (a) inflicts, causes to be inflicted, or allows to be  
24 inflicted upon such child physical injury, by other than  
25 accidental means, which causes death, disfigurement,



1 impairment of physical or emotional health, or loss or  
2 impairment of any bodily function;

3 (b) creates a substantial risk of physical injury to  
4 such child by other than accidental means which would be  
5 likely to cause death, disfigurement, impairment of  
6 physical or emotional health, or loss or impairment of any  
7 bodily function;

8 (c) commits or allows to be committed any sex offense  
9 against such child, as such sex offenses are defined in the  
10 Criminal Code of 1961, as amended, and extending those  
11 definitions of sex offenses to include children under 18  
12 years of age;

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

15 (e) inflicts excessive corporal punishment;

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

19 (g) causes to be sold, transferred, distributed, or  
20 given to such child under 18 years of age, a controlled  
21 substance as defined in Section 102 of the Illinois  
22 Controlled Substances Act in violation of Article IV of the  
23 Illinois Controlled Substances Act or in violation of the  
24 Methamphetamine Control and Community Protection Act,  
25 except for controlled substances that are prescribed in  
26 accordance with Article III of the Illinois Controlled

1 Substances Act and are dispensed to such child in a manner  
2 that substantially complies with the prescription.

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

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

1 of Section 102 of the Illinois Controlled Substances Act or a  
2 metabolite thereof, with the exception of a controlled  
3 substance or metabolite thereof whose presence in the newborn  
4 infant is the result of medical treatment administered to the  
5 mother or the newborn infant. A child shall not be considered  
6 neglected for the sole reason that the child's parent or other  
7 person responsible for his or her welfare has left the child in  
8 the care of an adult relative for any period of time. A child  
9 shall not be considered neglected for the sole reason that the  
10 child has been relinquished in accordance with the Abandoned  
11 Newborn Infant Protection Act. A child shall not be considered  
12 neglected or abused for the sole reason that such child's  
13 parent or other person responsible for his or her welfare  
14 depends upon spiritual means through prayer alone for the  
15 treatment or cure of disease or remedial care as provided under  
16 Section 4 of this Act. A child shall not be considered  
17 neglected or abused solely because the child is not attending  
18 school in accordance with the requirements of Article 26 of The  
19 School Code, as amended.

20 "Child Protective Service Unit" means certain specialized  
21 State employees of the Department assigned by the Director to  
22 perform the duties and responsibilities as provided under  
23 Section 7.2 of this Act.

24 "Person responsible for the child's welfare" means the  
25 child's parent; guardian; foster parent; relative caregiver;  
26 any person responsible for the child's welfare in a public or

1 private residential agency or institution; any person  
2 responsible for the child's welfare within a public or private  
3 profit or not for profit child care facility; or any other  
4 person responsible for the child's welfare at the time of the  
5 alleged abuse or neglect, or any person who came to know the  
6 child through an official capacity or position of trust,  
7 including but not limited to health care professionals,  
8 educational personnel, recreational supervisors, members of  
9 the clergy, and volunteers or support personnel in any setting  
10 where children may be subject to abuse or neglect.

11 "Temporary protective custody" means custody within a  
12 hospital or other medical facility or a place previously  
13 designated for such custody by the Department, subject to  
14 review by the Court, including a licensed foster home, group  
15 home, or other institution; but such place shall not be a jail  
16 or other place for the detention of criminal or juvenile  
17 offenders.

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

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

24 "An undetermined report" means any report made under this  
25 Act in which it was not possible to initiate or complete an  
26 investigation on the basis of information provided to the

1 Department.

2 "Subject of report" means any child reported to the central  
3 register of child abuse and neglect established under Section  
4 7.7 of this Act and his or her parent, guardian or other person  
5 responsible who is also named in the report.

6 "Perpetrator" means a person who, as a result of  
7 investigation, has been determined by the Department to have  
8 caused child abuse or neglect.

9 "Member of the clergy" means a clergyman or practitioner of  
10 any religious denomination accredited by the religious body to  
11 which he or she belongs.

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

13 (325 ILCS 5/4) (from Ch. 23, par. 2054)

14 Sec. 4. Persons required to report; privileged  
15 communications; transmitting false report. Any physician,  
16 resident, intern, hospital, hospital administrator and  
17 personnel engaged in examination, care and treatment of  
18 persons, surgeon, dentist, dentist hygienist, osteopath,  
19 chiropractor, podiatrist, physician assistant, substance abuse  
20 treatment personnel, funeral home director or employee,  
21 coroner, medical examiner, emergency medical technician,  
22 acupuncturist, crisis line or hotline personnel, school  
23 personnel (including administrators and both certified and  
24 non-certified school employees), educational advocate assigned  
25 to a child pursuant to the School Code, member of a school

1 board or the Chicago Board of Education or the governing body  
2 of a private school (but only to the extent required in  
3 accordance with other provisions of this Section expressly  
4 concerning the duty of school board members to report suspected  
5 child abuse), truant officers, social worker, social services  
6 administrator, domestic violence program personnel, registered  
7 nurse, licensed practical nurse, genetic counselor,  
8 respiratory care practitioner, advanced practice nurse, home  
9 health aide, director or staff assistant of a nursery school or  
10 a child day care center, recreational program or facility  
11 personnel, law enforcement officer, licensed professional  
12 counselor, licensed clinical professional counselor,  
13 registered psychologist and assistants working under the  
14 direct supervision of a psychologist, psychiatrist, or field  
15 personnel of the Department of Healthcare and Family Services,  
16 Juvenile Justice, Public Health, Human Services (acting as  
17 successor to the Department of Mental Health and Developmental  
18 Disabilities, Rehabilitation Services, or Public Aid),  
19 Corrections, Human Rights, or Children and Family Services,  
20 supervisor and administrator of general assistance under the  
21 Illinois Public Aid Code, probation officer, animal control  
22 officer or Illinois Department of Agriculture Bureau of Animal  
23 Health and Welfare field investigator, or any other foster  
24 parent, homemaker or child care worker having reasonable cause  
25 to believe a child known to them in their professional or  
26 official capacity may be an abused child or a neglected child

1 shall immediately report or cause a report to be made to the  
2 Department.

3 Any member of the clergy having reasonable cause to believe  
4 that a child known to that member of the clergy in his or her  
5 professional capacity may be an abused child as defined in item  
6 (c) of the definition of "abused child" in Section 3 of this  
7 Act shall immediately report or cause a report to be made to  
8 the Department.

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

23 Notwithstanding any other provision of this Act, if an  
24 employee of a school district has made a report or caused a  
25 report to be made to the Department under this Act involving  
26 the conduct of a current or former employee of the school

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



1           Whenever such person is required to report under this Act  
2 in his capacity as a member of the staff of a medical or other  
3 public or private institution, school, facility or agency, or  
4 as a member of the clergy, he shall make report immediately to  
5 the Department in accordance with the provisions of this Act  
6 and may also notify the person in charge of such institution,  
7 school, facility or agency, or church, synagogue, temple,  
8 mosque, or other religious institution, or his designated agent  
9 that such report has been made. Under no circumstances shall  
10 any person in charge of such institution, school, facility or  
11 agency, or church, synagogue, temple, mosque, or other  
12 religious institution, or his designated agent to whom such  
13 notification has been made, exercise any control, restraint,  
14 modification or other change in the report or the forwarding of  
15 such report to the Department.

16           The privileged quality of communication between any  
17 professional person required to report and his patient or  
18 client shall not apply to situations involving abused or  
19 neglected children and shall not constitute grounds for failure  
20 to report as required by this Act.

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

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

1 Any person who enters into employment on and after July 1,  
2 1986 and is mandated by virtue of that employment to report  
3 under this Act, shall sign a statement on a form prescribed by  
4 the Department, to the effect that the employee has knowledge  
5 and understanding of the reporting requirements of this Act.  
6 The statement shall be signed prior to commencement of the  
7 employment. The signed statement shall be retained by the  
8 employer. The cost of printing, distribution, and filing of the  
9 statement shall be borne by the employer.

10 The Department shall provide copies of this Act, upon  
11 request, to all employers employing persons who shall be  
12 required under the provisions of this Section to report under  
13 this Act.

14 Any person who knowingly transmits a false report to the  
15 Department commits the offense of disorderly conduct under  
16 subsection (a)(7) of Section 26-1 of the "Criminal Code of  
17 1961". Any person who violates this provision a second or  
18 subsequent time shall be guilty of a Class 3 felony.

19 Any person who knowingly and willfully violates any  
20 provision of this Section other than a second or subsequent  
21 violation of transmitting a false report as described in the  
22 preceding paragraph, is guilty of a Class A misdemeanor for a  
23 first violation and a Class 4 felony for a second or subsequent  
24 violation; except that if the person acted as part of a plan or  
25 scheme having as its object the prevention of discovery of an  
26 abused or neglected child by lawful authorities for the purpose

1 of protecting or insulating any person or entity from arrest or  
2 prosecution, the person is guilty of a Class 4 felony for a  
3 first offense and a Class 3 felony for a second or subsequent  
4 offense (regardless of whether the second or subsequent offense  
5 involves any of the same facts or persons as the first or other  
6 prior offense).

7 A child whose parent, guardian or custodian in good faith  
8 selects and depends upon spiritual means through prayer alone  
9 for the treatment or cure of disease or remedial care may be  
10 considered neglected or abused, but not for the sole reason  
11 that his parent, guardian or custodian accepts and practices  
12 such beliefs.

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

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

21 A home rule unit may not regulate the reporting of child  
22 abuse or neglect in a manner inconsistent with the provisions  
23 of this Section. This Section is a limitation under subsection  
24 (i) of Section 6 of Article VII of the Illinois Constitution on  
25 the concurrent exercise by home rule units of powers and  
26 functions exercised by the State.

1       For purposes of this Section "child abuse or neglect"  
2 includes abuse or neglect of an adult resident as defined in  
3 this Act.

4       (Source: P.A. 95-10, eff. 6-30-07; 95-461, eff. 8-27-07;  
5 95-876, eff. 8-21-08; 95-908, eff. 8-26-08; 96-494, eff.  
6 8-14-09.)

7           (325 ILCS 5/4.4a new)

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

22           (325 ILCS 5/7) (from Ch. 23, par. 2057)

23       Sec. 7. Time and manner of making reports. All reports of  
24 suspected child abuse or neglect made under this Act shall be

1 made immediately by telephone to the central register  
2 established under Section 7.7 on the single, State-wide,  
3 toll-free telephone number established in Section 7.6, or in  
4 person or by telephone through the nearest Department office.  
5 The Department shall, in cooperation with school officials,  
6 distribute appropriate materials in school buildings listing  
7 the toll-free telephone number established in Section 7.6,  
8 including methods of making a report under this Act. The  
9 Department may, in cooperation with appropriate members of the  
10 clergy, distribute appropriate materials in churches,  
11 synagogues, temples, mosques, or other religious buildings  
12 listing the toll-free telephone number established in Section  
13 7.6, including methods of making a report under this Act.

14 Wherever the Statewide number is posted, there shall also  
15 be posted the following notice:

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

23 The report required by this Act shall include, if known,  
24 the name and address of the child and his parents or other  
25 persons having his custody; the child's age; the nature of the  
26 child's condition including any evidence of previous injuries

1 or disabilities; and any other information that the person  
2 filing the report believes might be helpful in establishing the  
3 cause of such abuse or neglect and the identity of the person  
4 believed to have caused such abuse or neglect. Reports made to  
5 the central register through the State-wide, toll-free  
6 telephone number shall be immediately transmitted by the  
7 Department to the appropriate Child Protective Service Unit.  
8 All such reports alleging the death of a child, serious injury  
9 to a child including, but not limited to, brain damage, skull  
10 fractures, subdural hematomas, and internal injuries, torture  
11 of a child, malnutrition of a child, and sexual abuse to a  
12 child, including, but not limited to, sexual intercourse,  
13 sexual exploitation, sexual molestation, and sexually  
14 transmitted disease in a child age 12 and under, shall also be  
15 immediately transmitted by the Department to the appropriate  
16 local law enforcement agency. The Department shall within 24  
17 hours orally notify local law enforcement personnel and the  
18 office of the State's Attorney of the involved county of the  
19 receipt of any report alleging the death of a child, serious  
20 injury to a child including, but not limited to, brain damage,  
21 skull fractures, subdural hematomas, and, internal injuries,  
22 torture of a child, malnutrition of a child, and sexual abuse  
23 to a child, including, but not limited to, sexual intercourse,  
24 sexual exploitation, sexual molestation, and sexually  
25 transmitted disease in a child age twelve and under. All oral  
26 reports made by the Department to local law enforcement

1 personnel and the office of the State's Attorney of the  
2 involved county shall be confirmed in writing within 24 hours  
3 of the oral report. All reports by persons mandated to report  
4 under this Act shall be confirmed in writing to the appropriate  
5 Child Protective Service Unit, which may be on forms supplied  
6 by the Department, within 48 hours of any initial report.

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

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

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

19 (325 ILCS 5/7.3) (from Ch. 23, par. 2057.3)

20 Sec. 7.3. (a) The Department shall be the sole agency  
21 responsible for receiving and investigating reports of child  
22 abuse or neglect made under this Act, including reports of  
23 adult resident abuse or neglect as defined in this Act, except  
24 where investigations by other agencies may be required with  
25 respect to reports alleging the death of a child, serious

1 injury to a child or sexual abuse to a child made pursuant to  
2 Sections 4.1 or 7 of this Act, and except that the Department  
3 may delegate the performance of the investigation to the  
4 Department of State Police, a law enforcement agency and to  
5 those private social service agencies which have been  
6 designated for this purpose by the Department prior to July 1,  
7 1980.

8 (b) Notwithstanding any other provision of this Act, the  
9 Department shall adopt rules expressly allowing law  
10 enforcement personnel to investigate reports of suspected  
11 child abuse or neglect concurrently with the Department,  
12 without regard to whether the Department determines a report to  
13 be "indicated" or "unfounded" or deems a report to be  
14 "undetermined".

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

16 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

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



1 an allegation of abuse or neglect under this Act.

2 (a-5) Beginning January 1, 2010, the Department of Children  
3 and Family Services may implement a 5-year demonstration of a  
4 "differential response program" in accordance with criteria,  
5 standards, and procedures prescribed by rule. The program may  
6 provide that, upon receiving a report, the Department shall  
7 determine whether to conduct a family assessment or an  
8 investigation as appropriate to prevent or provide a remedy for  
9 child abuse or neglect.

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

19 For purposes of this subsection (a-5), "investigation"  
20 means fact-gathering related to the current safety of a child  
21 and the risk of subsequent abuse or neglect that determines  
22 whether a report of suspected child abuse or neglect should be  
23 indicated or unfounded and whether child protective services  
24 are needed.

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

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

3           (2) Shall begin an immediate investigation if, at any  
4 time when it is using a family assessment response, it  
5 determines that there is reason to believe that substantial  
6 child abuse or neglect or a serious threat to the child's  
7 safety exists.

8           (3) May conduct a family assessment for reports that do  
9 not allege substantial child endangerment. In determining  
10 that a family assessment is appropriate, the Department may  
11 consider issues including, but not limited to, child  
12 safety, parental cooperation, and the need for an immediate  
13 response.

14           (4) Shall promulgate criteria, standards, and  
15 procedures that shall be applied in making this  
16 determination, taking into consideration the Child  
17 Endangerment Risk Assessment Protocol of the Department.

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

20           In determining that a complete investigation is not  
21 required, the Department must document the reason for  
22 terminating the investigation and notify the local law  
23 enforcement agency or the Department of State Police if the  
24 local law enforcement agency or Department of State Police is  
25 conducting a joint investigation.

26           Once it is determined that a "family assessment" will be

1 implemented, the case shall not be reported to the central  
2 register of abuse and neglect reports.

3 During a family assessment, the Department shall collect  
4 any available and relevant information to determine child  
5 safety, risk of subsequent abuse or neglect, and family  
6 strengths.

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

17 (A) The child's sex and age, prior reports of abuse or  
18 neglect, information relating to developmental  
19 functioning, credibility of the child's statement, and  
20 whether the information provided under this paragraph (A)  
21 is consistent with other information collected during the  
22 course of the assessment or investigation.

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

1           (C) Collateral source information regarding the  
2           alleged abuse or neglect and care of the child. Collateral  
3           information includes, when relevant: (i) a medical  
4           examination of the child; (ii) prior medical records  
5           relating to the alleged maltreatment or care of the child  
6           maintained by any facility, clinic, or health care  
7           professional, and an interview with the treating  
8           professionals; and (iii) interviews with the child's  
9           caretakers, including the child's parent, guardian, foster  
10          parent, child care provider, teachers, counselors, family  
11          members, relatives, and other persons who may have  
12          knowledge regarding the alleged maltreatment and the care  
13          of the child.

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

16          Nothing in this subsection (a-5) precludes the Department  
17          from collecting other relevant information necessary to  
18          conduct the assessment or investigation. Nothing in this  
19          subsection (a-5) shall be construed to allow the name or  
20          identity of a reporter to be disclosed in violation of the  
21          protections afforded under Section 7.19 of this Act.

22          After conducting the family assessment, the Department  
23          shall determine whether services are needed to address the  
24          safety of the child and other family members and the risk of  
25          subsequent abuse or neglect.

26          Upon completion of the family assessment, if the Department

1 concludes that no services shall be offered, then the case  
2 shall be closed. If the Department concludes that services  
3 shall be offered, the Department shall develop a family  
4 preservation plan and offer or refer services to the family.

5 At any time during a family assessment, if the Department  
6 believes there is any reason to stop the assessment and conduct  
7 an investigation based on the information discovered, the  
8 Department shall do so.

9 The procedures available to the Department in conducting  
10 investigations under this Act shall be followed as appropriate  
11 during a family assessment.

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

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

22 (b) (1) The following procedures shall be followed in the  
23 investigation of all reports of suspected abuse or neglect  
24 of a child, except as provided in subsection (c) of this  
25 Section.

26 (2) If, during a family assessment authorized by

1 subsection (a-5) or an investigation, it appears that the  
2 immediate safety or well-being of a child is endangered,  
3 that the family may flee or the child disappear, or that  
4 the facts otherwise so warrant, the Child Protective  
5 Service Unit shall commence an investigation immediately,  
6 regardless of the time of day or night. All other  
7 investigations shall be commenced within 24 hours of  
8 receipt of the report. Upon receipt of a report, the Child  
9 Protective Service Unit shall conduct a family assessment  
10 authorized by subsection (a-5) or begin an initial  
11 investigation and make an initial determination whether  
12 the report is a good faith indication of alleged child  
13 abuse or neglect.

14 (3) Based on an initial investigation, if the Unit  
15 determines the report is a good faith indication of alleged  
16 child abuse or neglect, then a formal investigation shall  
17 commence and, pursuant to Section 7.12 of this Act, may or  
18 may not result in an indicated report. The formal  
19 investigation shall include: direct contact with the  
20 subject or subjects of the report as soon as possible after  
21 the report is received; an evaluation of the environment of  
22 the child named in the report and any other children in the  
23 same environment; a determination of the risk to such  
24 children if they continue to remain in the existing  
25 environments, as well as a determination of the nature,  
26 extent and cause of any condition enumerated in such

1 report; the name, age and condition of other children in  
2 the environment; and an evaluation as to whether there  
3 would be an immediate and urgent necessity to remove the  
4 child from the environment if appropriate family  
5 preservation services were provided. After seeing to the  
6 safety of the child or children, the Department shall  
7 forthwith notify the subjects of the report in writing, of  
8 the existence of the report and their rights existing under  
9 this Act in regard to amendment or expungement. To fulfill  
10 the requirements of this Section, the Child Protective  
11 Service Unit shall have the capability of providing or  
12 arranging for comprehensive emergency services to children  
13 and families at all times of the day or night.

14 (4) If (i) at the conclusion of the Unit's initial  
15 investigation of a report, the Unit determines the report  
16 to be a good faith indication of alleged child abuse or  
17 neglect that warrants a formal investigation by the Unit,  
18 the Department, any law enforcement agency or any other  
19 responsible agency and (ii) the person who is alleged to  
20 have caused the abuse or neglect is employed or otherwise  
21 engaged in an activity resulting in frequent contact with  
22 children and the alleged abuse or neglect are in the course  
23 of such employment or activity, then the Department shall,  
24 except in investigations where the Director determines  
25 that such notification would be detrimental to the  
26 Department's investigation, inform the appropriate

1 supervisor or administrator of that employment or activity  
2 that the Unit has commenced a formal investigation pursuant  
3 to this Act, which may or may not result in an indicated  
4 report. The Department shall also notify the person being  
5 investigated, unless the Director determines that such  
6 notification would be detrimental to the Department's  
7 investigation.

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

12 (1) Investigations involving teachers shall not, to  
13 the extent possible, be conducted when the teacher is  
14 scheduled to conduct classes. Investigations involving  
15 other school employees shall be conducted so as to minimize  
16 disruption of the school day. The school employee accused  
17 of child abuse or neglect may have his superior, his  
18 association or union representative and his attorney  
19 present at any interview or meeting at which the teacher or  
20 administrator is present. The accused school employee  
21 shall be informed by a representative of the Department, at  
22 any interview or meeting, of the accused school employee's  
23 due process rights and of the steps in the investigation  
24 process. The information shall include, but need not  
25 necessarily be limited to the right, subject to the  
26 approval of the Department, of the school employee to



1       confront the accuser, if the accuser is 14 years of age or  
2       older, or the right to review the specific allegations  
3       which gave rise to the investigation, and the right to  
4       review all materials and evidence that have been submitted  
5       to the Department in support of the allegation. These due  
6       process rights shall also include the right of the school  
7       employee to present countervailing evidence regarding the  
8       accusations.

9               (2) If a report of neglect or abuse of a child by a  
10       teacher or administrator does not involve allegations of  
11       sexual abuse or extreme physical abuse, the Child  
12       Protective Service Unit shall make reasonable efforts to  
13       conduct the initial investigation in coordination with the  
14       employee's supervisor.

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

19              (3) If a report of neglect or abuse of a child by a  
20       teacher or administrator involves an allegation of sexual  
21       abuse or extreme physical abuse, the Child Protective Unit  
22       shall commence an investigation under paragraph (2) of  
23       subsection (b) of this Section.

24              (c-5) In any instance in which a report is made or caused  
25       to made by a school district employee involving the conduct of  
26       a person employed by the school district, at the time the

1 report was made, as required under Section 4 of this Act, the  
2 Child Protective Service Unit shall send a copy of its final  
3 finding report to the general superintendent of that school  
4 district.

5 (d) If the Department has contact with an employer, or with  
6 a religious institution or religious official having  
7 supervisory or hierarchical authority over a member of the  
8 clergy accused of the abuse of a child, in the course of its  
9 investigation, the Department shall notify the employer or the  
10 religious institution or religious official, in writing, when a  
11 report is unfounded so that any record of the investigation can  
12 be expunged from the employee's or member of the clergy's  
13 personnel or other records. The Department shall also notify  
14 the employee or the member of the clergy, in writing, that  
15 notification has been sent to the employer or to the  
16 appropriate religious institution or religious official  
17 informing the employer or religious institution or religious  
18 official that the Department's investigation has resulted in an  
19 unfounded report.

20 (e) Upon request by the Department, the Department of State  
21 Police and law enforcement agencies are authorized to provide  
22 criminal history record information as defined in the Illinois  
23 Uniform Conviction Information Act and information maintained  
24 in the adjudicatory and dispositional record system as defined  
25 in Section 2605-355 of the Department of State Police Law (20  
26 ILCS 2605/2605-355) to properly designated employees of the

1 Department of Children and Family Services if the Department  
2 determines the information is necessary to perform its duties  
3 under the Abused and Neglected Child Reporting Act, the Child  
4 Care Act of 1969, and the Children and Family Services Act. The  
5 request shall be in the form and manner required by the  
6 Department of State Police. Any information obtained by the  
7 Department of Children and Family Services under this Section  
8 is confidential and may not be transmitted outside the  
9 Department of Children and Family Services other than to a  
10 court of competent jurisdiction or unless otherwise authorized  
11 by law. Any employee of the Department of Children and Family  
12 Services who transmits confidential information in violation  
13 of this Section or causes the information to be transmitted in  
14 violation of this Section is guilty of a Class A misdemeanor  
15 unless the transmittal of the information is authorized by this  
16 Section or otherwise authorized by law.

17 (f) 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. 95-908, eff. 8-26-08; 96-760, eff. 1-1-10.)

21 (325 ILCS 5/7.7) (from Ch. 23, par. 2057.7)

22 Sec. 7.7. There shall be a central register of all cases of  
23 suspected child abuse or neglect reported and maintained by the  
24 Department under this Act. Through the recording of initial,  
25 preliminary, and final reports, the central register shall be

1 operated in such a manner as to enable the Department to: (1)  
2 immediately identify and locate prior reports of child abuse or  
3 neglect; (2) continuously monitor the current status of all  
4 reports of child abuse or neglect being provided services under  
5 this Act; and (3) regularly evaluate the effectiveness of  
6 existing laws and programs through the development and analysis  
7 of statistical and other information.

8 The Department shall maintain in the central register a  
9 listing of unfounded reports where the subject of the unfounded  
10 report requests that the record not be expunged because the  
11 subject alleges an intentional false report was made. Such a  
12 request must be made by the subject in writing to the  
13 Department, within 10 days of the investigation.

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

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

23 For purposes of this Section "child abuse or neglect"  
24 includes abuse or neglect of an adult resident as defined in  
25 this Act.

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

1 (325 ILCS 5/7.10) (from Ch. 23, par. 2057.10)

2 Sec. 7.10. Upon the receipt of each oral report made under  
3 this Act, the Child Protective Service Unit shall immediately  
4 transmit a copy thereof to the state central register of child  
5 abuse and neglect. A preliminary report from a Child Protective  
6 Service Unit shall be made at the time of the first of any  
7 30-day extensions made pursuant to Section 7.12 and shall  
8 describe the status of the related investigation up to that  
9 time, including an evaluation of the present family situation  
10 and danger to the child or children, corrections or up-dating  
11 of the initial report, and actions taken or contemplated.

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

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

15 (325 ILCS 5/7.14) (from Ch. 23, par. 2057.14)

16 Sec. 7.14. All reports in the central register shall be  
17 classified in one of three categories: "indicated",  
18 "unfounded" or "undetermined", as the case may be. After the  
19 report is classified, the person making the classification  
20 shall determine whether the child named in the report is the  
21 subject of an action under Article II of the Juvenile Court Act  
22 of 1987. If the child is the subject of an action under Article  
23 II of the Juvenile Court Act, the Department shall transmit a  
24 copy of the report to the guardian ad litem appointed for the

1 child under Section 2-17 of the Juvenile Court Act. All  
2 information identifying the subjects of an unfounded report  
3 shall be expunged from the register forthwith, except as  
4 provided in Section 7.7. Unfounded reports may only be made  
5 available to the Child Protective Service Unit when  
6 investigating a subsequent report of suspected abuse or  
7 maltreatment involving a child named in the unfounded report;  
8 and to the subject of the report, provided that the subject  
9 requests the report within 60 days of being notified that the  
10 report was unfounded. The Child Protective Service Unit shall  
11 not indicate the subsequent report solely based upon the  
12 existence of the prior unfounded report or reports.  
13 Notwithstanding any other provision of law to the contrary, an  
14 unfounded report shall not be admissible in any judicial or  
15 administrative proceeding or action. Identifying information  
16 on all other records shall be removed from the register no  
17 later than 5 years after the report is indicated. However, if  
18 another report is received involving the same child, his  
19 sibling or offspring, or a child in the care of the persons  
20 responsible for the child's welfare, or involving the same  
21 alleged offender, the identifying information may be  
22 maintained in the register until 5 years after the subsequent  
23 case or report is closed.

24 Notwithstanding any other provision of this Section,  
25 identifying information in indicated reports involving serious  
26 physical injury to a child as defined by the Department in

1 rules, may be retained longer than 5 years after the report is  
2 indicated or after the subsequent case or report is closed, and  
3 may not be removed from the register except as provided by the  
4 Department in rules. Identifying information in indicated  
5 reports involving sexual penetration of a child, sexual  
6 molestation of a child, sexual exploitation of a child, torture  
7 of a child, or the death of a child, as defined by the  
8 Department in rules, shall be retained for a period of not less  
9 than 50 years after the report is indicated or after the  
10 subsequent case or report is closed.

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

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

14 (325 ILCS 5/8.1) (from Ch. 23, par. 2058.1)

15 Sec. 8.1. If the Child Protective Service Unit determines  
16 after investigating a report that there is no credible evidence  
17 that a child is abused or neglected, it shall deem the report  
18 to be an unfounded report. However, if it appears that the  
19 child or family could benefit from other social services, the  
20 local service may suggest such services, including services  
21 under Section 8.2, for the family's voluntary acceptance or  
22 refusal. If the family declines such services, the Department  
23 shall take appropriate action in keeping with the best interest  
24 of the child, including referring a member of the child's  
25 family to a facility licensed by the Department of Human

1 Services or the Department of Public Health. For purposes of  
2 this Section "child" includes an adult resident as defined in  
3 this Act.

4 (Source: P.A. 88-85; 88-487; 88-670, eff. 12-2-94; 89-507, eff.  
5 7-1-97.)

6 (325 ILCS 5/8.5) (from Ch. 23, par. 2058.5)

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

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

18 (325 ILCS 5/9) (from Ch. 23, par. 2059)

19 Sec. 9. Any person, institution or agency, under this Act,  
20 participating in good faith in the making of a report or  
21 referral, or in the investigation of such a report or referral  
22 or in the taking of photographs and x-rays or in the retaining  
23 a child in temporary protective custody or in making a  
24 disclosure of information concerning reports of child abuse and



1 neglect in compliance with Sections 4.2 and 11.1 of this Act or  
2 Section 4 of this Act, as it relates to disclosure by school  
3 personnel and except in cases of wilful or wanton misconduct,  
4 shall have immunity from any liability, civil, criminal or that  
5 otherwise might result by reason of such actions. For the  
6 purpose of any proceedings, civil or criminal, the good faith  
7 of any persons required to report or refer, or permitted to  
8 report, cases of suspected child abuse or neglect or permitted  
9 to refer individuals under this Act or required to disclose  
10 information concerning reports of child abuse and neglect in  
11 compliance with Sections 4.2 and 11.1 of this Act, shall be  
12 presumed. For purposes of this Section "child abuse and  
13 neglect" includes abuse or neglect of an adult resident as  
14 defined in this Act.

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

16 (325 ILCS 5/9.1) (from Ch. 23, par. 2059.1)

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

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

2 (325 ILCS 5/11) (from Ch. 23, par. 2061)

3 Sec. 11. All records concerning reports of child abuse and  
4 neglect or records concerning referrals under this Act and all  
5 records generated as a result of such reports or referrals,  
6 shall be confidential and shall not be disclosed except as  
7 specifically authorized by this Act or other applicable law. It  
8 is a Class A misdemeanor to permit, assist, or encourage the  
9 unauthorized release of any information contained in such  
10 reports, referrals or records.

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

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

20 Section 95. No acceleration or delay. Where this Act makes  
21 changes in a statute that is represented in this Act by text  
22 that is not yet or no longer in effect (for example, a Section  
23 represented by multiple versions), the use of that text does  
24 not accelerate or delay the taking effect of (i) the changes

1 made by this Act or (ii) provisions derived from any other  
2 Public Act.

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".