

99TH GENERAL ASSEMBLY**State of Illinois****2015 and 2016****SB3299**

Introduced 2/19/2016, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/1-17

Amends the Department of Human Services Act. In a provision requiring the Department of Humans Services' Inspector General to adopt rules establishing minimum requirements for reporting abuse or neglect allegations involving individuals receiving services due to mental illness, developmental disability, or both, provides that, in addition to other specified requirements, such rules shall (i) establish a process that ensures agencies are regularly informed on the status of ongoing investigations; and (ii) ensure agencies are informed of the ability to have trained staff follow procedures to perform investigations. In a provision concerning training programs, requires the Inspector General to establish a comprehensive program to ensure that every person authorized to conduct investigations receives ongoing and consistent (rather than ongoing) training relative to investigation techniques, communication skills, community models of providing long-term services and supports to persons with intellectual or developmental disabilities or mental illnesses, and the appropriate means of interacting with persons with intellectual or developmental disabilities or mental illnesses who are receiving services in a community setting (rather than the appropriate means of interacting with persons receiving treatment for mental illness, developmental disability, or both mental illness and developmental disability). Requires the Office of the Inspector General to (i) indicate the date upon which an investigation has begun on all reports, including final investigative reports; (ii) take steps to ensure investigative reports are completed in a timely manner; and (iii) outline procedures aimed at streamlining the investigatory process. Effective immediately.

LRB099 18516 KTG 42895 b

FISCAL NOTE ACT
MAY APPLY**A BILL FOR**

1 AN ACT concerning State government.

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

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

6 (20 ILCS 1305/1-17)

7 Sec. 1-17. Inspector General.

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

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

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

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

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

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

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

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

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

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

3 "Department" means the Department of Human Services.

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

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

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

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

26 "Financial exploitation" means taking unjust advantage of

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

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

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

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

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

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

21 "Mentally ill" means having a mental illness.

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

1 accused.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 process that ensures agencies are regularly informed on the
2 status of ongoing investigations; (ii) ensure agencies are
3 informed of the ability to have trained staff follow procedures
4 to perform investigations; (iii) ~~The rules shall~~ clearly
5 establish that if 2 or more State agencies could investigate an
6 allegation, the Inspector General shall not conduct an
7 investigation that would be redundant to, or interfere with, an
8 investigation conducted by another State agency; and (iv) ~~The~~
9 ~~rules shall~~ further clarify the method and circumstances under
10 which the Office of Inspector General may interact with the
11 licensing, funding, or certification units of the Department in
12 preventing further occurrences of mental abuse, physical
13 abuse, sexual abuse, neglect, egregious neglect, and financial
14 exploitation.

15 (h) Training programs. The Inspector General shall (i)
16 establish a comprehensive program to ensure that every person
17 authorized to conduct investigations receives ongoing and
18 consistent training relative to investigation techniques,
19 communication skills, community models of providing long-term
20 services and supports to persons with intellectual or
21 developmental disabilities or mental illnesses, and the
22 appropriate means of interacting with persons with
23 intellectual or developmental disabilities or mental illnesses
24 who are receiving services in a community setting ~~receiving~~
25 ~~treatment for mental illness, developmental disability, or~~
26 ~~both mental illness and developmental disability,~~ and (ii)

1 establish and conduct periodic training programs for facility
2 and agency employees concerning the prevention and reporting of
3 any one or more of the following: mental abuse, physical abuse,
4 sexual abuse, neglect, egregious neglect, or financial
5 exploitation. Nothing in this Section shall be deemed to
6 prevent the Office of Inspector General from conducting any
7 other training as determined by the Inspector General to be
8 necessary or helpful.

9 (i) Duty to cooperate.

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

22 (2) Any employee who fails to cooperate with an Office
23 of the Inspector General investigation is in violation of
24 this Act. Failure to cooperate with an investigation
25 includes, but is not limited to, any one or more of the
26 following: (i) creating and transmitting a false report to

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

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

26 (k) Reporting allegations and deaths.

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

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

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

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

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

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

6 (1) Reporting to law enforcement.

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

20 (2) Reporting allegations of adult students with
21 disabilities. Upon receipt of a reportable allegation
22 regarding an adult student with a disability, the
23 Department's Office of the Inspector General shall
24 determine whether the allegation meets the criteria for the
25 Domestic Abuse Program under the Abuse of Adults with
26 Disabilities Intervention Act. If the allegation is

1 reportable to that program, the Office of the Inspector
2 General shall initiate an investigation. If the allegation
3 is not reportable to the Domestic Abuse Program, the Office
4 of the Inspector General shall make an expeditious referral
5 to the respective law enforcement entity. If the alleged
6 victim is already receiving services from the Department,
7 the Office of the Inspector General shall also make a
8 referral to the respective Department of Human Services'
9 Division or Bureau.

10 (m) Investigative reports. The Office of the Inspector
11 General shall indicate the date upon which an investigation has
12 begun on all reports, including final investigative reports.
13 Furthermore, the Office shall take steps to ensure
14 investigative reports are completed in a timely manner. Upon
15 completion of an investigation, the Office of Inspector General
16 shall issue an investigative report identifying whether the
17 allegations are substantiated, unsubstantiated, or unfounded.
18 Within 10 business days after the transmittal of a completed
19 investigative report substantiating an allegation, or if a
20 recommendation is made, the Inspector General shall provide the
21 investigative report on the case to the Secretary and to the
22 director of the facility or agency where any one or more of the
23 following occurred: mental abuse, physical abuse, sexual
24 abuse, neglect, egregious neglect, or financial exploitation.
25 In a substantiated case, the investigative report shall include
26 any mitigating or aggravating circumstances that were

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

22 (m-5) Managing investigation caseloads. By no later than
23 one year after the effective date of this amendatory Act of the
24 99th General Assembly, the Office of the Inspector General
25 shall outline procedures aimed at streamlining the
26 investigatory process. Such procedures shall include, but

1 shall not be limited to, assessing the severity of the
2 allegation and determining the primary responsibility for
3 investigation. The Office shall determine expeditiously after
4 receipt of an allegation, whether it is a minor or severe
5 allegation. The Office shall delegate community agencies to
6 take primary responsibility for investigating minor
7 allegations. The Office shall take primary responsibility for
8 investigating egregious allegations.

9 (n) Written responses and reconsideration requests.

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

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

26 (o) Disclosure of the finding by the Inspector General. The

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

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

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

1 shall send updated implementation reports every 60 days until
2 completion. The Inspector General shall conduct a review of any
3 implementation plan that takes more than 120 days after
4 approval to complete, and shall monitor compliance through a
5 random review of approved written responses, which may include,
6 but are not limited to: (i) site visits, (ii) telephone
7 contact, and (iii) requests for additional documentation
8 evidencing compliance.

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

15 (1) Appointment of on-site monitors.

16 (2) Transfer or relocation of an individual or
17 individuals.

18 (3) Closure of units.

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

20 (i) Department licensing, (ii) funding, or (iii)
21 certification.

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

25 (s) Health care worker registry.

26 (1) Reporting to the registry. The Inspector General

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

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

26 (3) Registry hearings. If the employee requests an

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

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

1 Health and Developmental Disabilities Confidentiality Act.

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

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

1 burden of presenting evidence that establishes, by a
2 preponderance of the evidence, that removal of the name
3 from the registry is in the public interest. The parties
4 may jointly request that the administrative law judge
5 consider a stipulated disposition of these proceedings.

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

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

23 Members appointed by the Governor shall be qualified by
24 professional knowledge or experience in the area of law,
25 investigatory techniques, or in the area of care of the
26 mentally ill or care of persons with developmental

1 disabilities. Two members appointed by the Governor shall be
2 persons with a disability or a parent of a person with a
3 disability. Members shall serve without compensation, but
4 shall be reimbursed for expenses incurred in connection with
5 the performance of their duties as members.

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

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

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

20 (2) Review existing regulations relating to the
21 operation of facilities.

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

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

1 offices.

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

20 (w) Program audit. The Auditor General shall conduct a
21 program audit of the Office of the Inspector General on an
22 as-needed basis, as determined by the Auditor General. The
23 audit shall specifically include the Inspector General's
24 compliance with the Act and effectiveness in investigating
25 reports of allegations occurring in any facility or agency. The
26 Auditor General shall conduct the program audit according to

1 the provisions of the Illinois State Auditing Act and shall
2 report its findings to the General Assembly no later than
3 January 1 following the audit period.

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

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

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.