



Sen. Laura Fine

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1 AMENDMENT TO SENATE BILL 855

2 AMENDMENT NO. _____. Amend Senate Bill 855 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the Residential
5 Facility Safety and Support Act.

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

8 (20 ILCS 1305/1-17)

9 Sec. 1-17. Inspector General.

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

1 General for the Department of Human Services is created to
2 investigate and report upon allegations of the abuse, neglect,
3 or financial exploitation of individuals receiving services
4 within mental health facilities, developmental disabilities
5 facilities, and community agencies operated, licensed, funded,
6 or certified by the Department of Human Services, but not
7 licensed or certified by any other State agency.

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

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

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

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

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

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

5 "Deflection" includes triage, redirection, and denial of
6 admission.

7 "Department" means the Department of Human Services.

8 "Developmental disability" means "developmental
9 disability" as defined in the Mental Health and Developmental
10 Disabilities Code.

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

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

1 volunteers.

2 "Facility" or "State-operated facility" means a mental
3 health facility or developmental disabilities facility
4 operated by the Department.

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

9 "Finding" means the Office of Inspector General's
10 determination regarding whether an allegation is
11 substantiated, unsubstantiated, or unfounded.

12 "Health Care Worker Registry" or "Registry" means the
13 Health Care Worker Registry under the Health Care Worker
14 Background Check Act.

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

18 "Material obstruction of an investigation" means the
19 purposeful interference with an investigation of physical
20 abuse, sexual abuse, mental abuse, neglect, or financial
21 exploitation and includes, but is not limited to, the
22 withholding or altering of documentation or recorded evidence;
23 influencing, threatening, or impeding witness testimony;
24 presenting untruthful information during an interview; failing
25 to cooperate with an investigation conducted by the Office of
26 the Inspector General. If an employee, following a criminal

1 investigation of physical abuse, sexual abuse, mental abuse,
2 neglect, or financial exploitation, is convicted of an offense
3 that is factually predicated on the employee presenting
4 untruthful information during the course of the investigation,
5 that offense constitutes obstruction of an investigation.
6 Obstruction of an investigation does not include: an
7 employee's lawful exercising of his or her constitutional
8 right against self-incrimination, an employee invoking his or
9 her lawful rights to union representation as provided by a
10 collective bargaining agreement or the Illinois Public Labor
11 Relations Act, or a union representative's lawful activities
12 providing representation under a collective bargaining
13 agreement or the Illinois Public Labor Relations Act.
14 Obstruction of an investigation is considered material when it
15 could significantly impair an investigator's ability to gather
16 all relevant facts. An employee shall not be placed on the
17 Health Care Worker Registry for presenting untruthful
18 information during an interview conducted by the Office of the
19 Inspector General, unless, prior to the interview, the
20 employee was provided with any previous signed statements he
21 or she made during the course of the investigation.

22 "Mental abuse" means the use of demeaning, intimidating,
23 or 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
26 or 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,
9 or 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
15 in 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
18 at substantial risk.

19 "Person with a developmental disability" means a person
20 having a developmental disability.

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

26 "Presenting untruthful information" means making a false

1 statement, material to an investigation of physical abuse,
2 sexual abuse, mental abuse, neglect, or financial
3 exploitation, knowing the statement is false.

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

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

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

14 "Sexual abuse" means any sexual contact or intimate
15 physical contact between an employee and an individual,
16 including an employee's coercion or encouragement of an
17 individual to engage in sexual behavior that results in sexual
18 contact, intimate physical contact, sexual behavior, or
19 intimate physical behavior. Sexual abuse also includes (i) an
20 employee's actions that result in the sending or showing of
21 sexually explicit images to an individual via computer,
22 cellular phone, electronic mail, portable electronic device,
23 or other media with or without contact with the individual or
24 (ii) an employee's posting of sexually explicit images of an
25 individual online or elsewhere whether or not there is contact
26 with the individual.

1 "Sexually explicit images" includes, but is not limited
2 to, any material which depicts nudity, sexual conduct, or
3 sado-masochistic abuse, or which contains explicit and
4 detailed verbal descriptions or narrative accounts of sexual
5 excitement, sexual conduct, or sado-masochistic abuse.

6 "Substantiated" means there is a preponderance of the
7 evidence to support the allegation.

8 "Unfounded" means there is no credible evidence to support
9 the allegation.

10 "Unsubstantiated" means there is credible evidence, but
11 less than a preponderance of evidence to support the
12 allegation.

13 (c) Appointment. The Governor shall appoint, and the
14 Senate shall confirm, an Inspector General. The Inspector
15 General shall be appointed for a term of 4 years and shall
16 function within the Department of Human Services and report to
17 the Secretary and the Governor.

18 (d) Operation and appropriation. The Inspector General
19 shall function independently within the Department with
20 respect to the operations of the Office, including the
21 performance of investigations and issuance of findings and
22 recommendations. The appropriation for the Office of Inspector
23 General shall be separate from the overall appropriation for
24 the Department.

25 (e) Powers and duties. The Inspector General shall
26 investigate reports of suspected mental abuse, physical abuse,

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

23 (f) Limitations. The Inspector General shall not conduct
24 an investigation within an agency or facility if that
25 investigation would be redundant to or interfere with an
26 investigation conducted by another State agency. The Inspector

1 General shall have no supervision over, or involvement in, the
2 routine programmatic, licensing, funding, or certification
3 operations of the Department. Nothing in this subsection
4 limits investigations by the Department that may otherwise be
5 required by law or that may be necessary in the Department's
6 capacity as central administrative authority responsible for
7 the operation of the State's mental health and developmental
8 disabilities facilities.

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

24 (h) Training programs. The Inspector General shall (i)
25 establish a comprehensive program to ensure that every person
26 authorized to conduct investigations receives ongoing training

1 relative to investigation techniques, communication skills,
2 and the appropriate means of interacting with persons
3 receiving treatment for mental illness, developmental
4 disability, or both mental illness and developmental
5 disability, and (ii) establish and conduct periodic training
6 programs for facility and agency employees concerning the
7 prevention and reporting of any one or more of the following:
8 mental abuse, physical abuse, sexual abuse, neglect, egregious
9 neglect, or financial exploitation. The Inspector General
10 shall further ensure (i) every person authorized to conduct
11 investigations at community agencies receives ongoing training
12 in Title 59, Parts 115, 116, and 119 of the Illinois
13 Administrative Code, and (ii) every person authorized to
14 conduct investigations shall receive ongoing training in Title
15 59, Part 50 of the Illinois Administrative Code. Nothing in
16 this Section shall be deemed to prevent the Office of
17 Inspector General from conducting any other training as
18 determined by the Inspector General to be necessary or
19 helpful.

20 (i) Duty to cooperate.

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

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

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

25 (j) Subpoena powers. The Inspector General shall have the
26 power to subpoena witnesses and compel the production of all

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

12 (k) Reporting allegations and deaths.

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

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

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

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

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

1 facility indicating a possible murder, sexual assault, or
2 other felony by an employee. All investigations conducted by
3 the Inspector General shall be conducted in a manner designed
4 to ensure the preservation of evidence for possible use in a
5 criminal 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, finding an
12 allegation is unsubstantiated, or if a recommendation is made,
13 the Inspector General shall provide the investigative report
14 on the case to the Secretary and to the director of the
15 facility or agency where any one or more of the following
16 occurred: mental abuse, physical abuse, sexual abuse, neglect,
17 egregious neglect, ~~or~~ financial exploitation, or material
18 obstruction of an investigation. The director of the facility
19 or agency shall be responsible for maintaining the
20 confidentiality of the investigative report consistent with
21 State and federal law. In a substantiated case, the
22 investigative report shall include any mitigating or
23 aggravating circumstances that were identified during the
24 investigation. If the case involves substantiated neglect, the
25 investigative report shall also state whether egregious
26 neglect was found. An investigative report may also set forth

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

23 (n) Written responses, clarification requests, and
24 reconsideration requests.

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

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

11 (2) Requests for clarification. The facility, agency,
12 victim or guardian, or the subject employee may request
13 that the Office of Inspector General clarify the finding
14 or findings for which clarification is sought.

15 (3) Requests for reconsideration. The facility,
16 agency, victim or guardian, or the subject employee may
17 request that the Office of the Inspector General
18 reconsider the finding or findings or the recommendations.
19 A request for reconsideration shall be subject to a
20 multi-layer review and shall include at least one reviewer
21 who did not participate in the investigation or approval
22 of the original investigative report. After the
23 multi-layer review process has been completed, the
24 Inspector General shall make the final determination on
25 the reconsideration request. The investigation shall be
26 reopened if the reconsideration determination finds that

1 additional information is needed to complete the
2 investigative record.

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

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

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

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

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

19 (1) Appointment of on-site monitors.

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

22 (3) Closure of units.

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

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

26 The Inspector General may seek the assistance of the

1 Illinois Attorney General or the office of any State's
2 Attorney in implementing sanctions.

3 (s) Health Care Worker Registry.

4 (1) Reporting to the Registry. The Inspector General
5 shall report to the Department of Public Health's Health
6 Care Worker Registry, a public registry, the identity and
7 finding of each employee of a facility or agency against
8 whom there is a final investigative report prepared by the
9 Office of the Inspector General containing a substantiated
10 allegation of physical or sexual abuse, financial
11 exploitation, ~~or~~ egregious neglect of an individual, or
12 material obstruction of an investigation, unless the
13 Inspector General requests a stipulated disposition of the
14 investigative report that does not include the reporting
15 of the employee's name to the Health Care Worker Registry
16 and the Secretary of Human Services agrees with the
17 requested stipulated disposition.

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
25 the grounds on which the report to the Registry is based,
26 offer the employee an opportunity for a hearing, and

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

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

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

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

1 agreement and if that employee's name has already been
2 sent to the Registry, the employee's name shall be removed
3 from the Registry.

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

18 (t) Review of Administrative Decisions. The Department
19 shall preserve a record of all proceedings at any formal
20 hearing conducted by the Department involving Health Care
21 Worker Registry hearings. Final administrative decisions of
22 the Department are subject to judicial review pursuant to
23 provisions of the Administrative Review Law.

24 (u) Quality Care Board. There is created, within the
25 Office of the Inspector General, a Quality Care Board to be
26 composed of 7 members appointed by the Governor with the

1 advice and consent of the Senate. One of the members shall be
2 designated as chairman by the Governor. Of the initial
3 appointments made by the Governor, 4 Board members shall each
4 be appointed for a term of 4 years and 3 members shall each be
5 appointed for a term of 2 years. Upon the expiration of each
6 member's term, a successor shall be appointed for a term of 4
7 years. In the case of a vacancy in the office of any member,
8 the Governor shall appoint a successor for the remainder of
9 the unexpired term.

10 Members appointed by the Governor shall be qualified by
11 professional knowledge or experience in the area of law,
12 investigatory techniques, or in the area of care of the
13 mentally ill or care of persons with developmental
14 disabilities. Two members appointed by the Governor shall be
15 persons with a disability or parents of persons with a
16 disability. Members shall serve without compensation, but
17 shall be reimbursed for expenses incurred in connection with
18 the performance of their duties as members.

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

24 The Board shall monitor and oversee the operations,
25 policies, and procedures of the Inspector General to ensure
26 the prompt and thorough investigation of allegations of

1 neglect and abuse. In fulfilling these responsibilities, the
2 Board may do the following:

3 (1) Provide independent, expert consultation to the
4 Inspector General on policies and protocols for
5 investigations of alleged abuse, neglect, or both abuse
6 and neglect.

7 (2) Review existing regulations relating to the
8 operation of facilities.

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

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

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

1 Inspector General's investigations, and their disposition, for
2 each facility and Department-wide, for the most recent 3-year
3 time period. The report shall also identify, by facility, the
4 staff-to-patient ratios taking account of direct care staff
5 only. The report shall also include detailed recommended
6 administrative actions and matters for consideration by the
7 General Assembly.

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

18 (x) Nothing in this Section shall be construed to mean
19 that an individual is a victim of abuse or neglect because of
20 health care services appropriately provided or not provided by
21 health care professionals.

22 (y) Nothing in this Section shall require a facility,
23 including its employees, agents, medical staff members, and
24 health care professionals, to provide a service to an
25 individual in contravention of that individual's stated or
26 implied objection to the provision of that service on the

1 ground that that service conflicts with the individual's
2 religious beliefs or practices, nor shall the failure to
3 provide a service to an individual be considered abuse under
4 this Section if the individual has objected to the provision
5 of that service based on his or her religious beliefs or
6 practices.

7 (Source: P.A. 101-81, eff. 7-12-19; 102-538, eff. 8-20-21;
8 102-883, eff. 5-13-22; 102-1071, eff. 6-10-22; revised
9 7-26-22.)

10 Section 10. The Mental Health and Developmental
11 Disabilities Administrative Act is amended by changing Section
12 7.3 as follows:

13 (20 ILCS 1705/7.3)

14 Sec. 7.3. Health Care Worker Registry, ~~finding of abuse or~~
15 ~~neglect~~. The Department shall require that no facility,
16 service agency, or support agency providing mental health or
17 developmental disability services that is licensed, certified,
18 operated, or funded by the Department shall employ a person,
19 in any capacity, who is identified by the Health Care Worker
20 Registry as having been the subject of a substantiated finding
21 of physical abuse, sexual abuse, financial exploitation,
22 egregious neglect, or material obstruction of an investigation
23 ~~abuse or neglect of a service recipient~~. Any owner or operator
24 of a community agency who is identified by the Health Care

1 Worker Registry as having been the subject of a substantiated
2 finding of physical abuse, sexual abuse, financial
3 exploitation, egregious neglect, or material obstruction of an
4 investigation ~~abuse or neglect of a service recipient~~ is
5 prohibited from any involvement in any capacity with the
6 provision of Department funded mental health or developmental
7 disability services. The Department shall establish and
8 maintain the rules that are necessary or appropriate to
9 effectuate the intent of this Section. The provisions of this
10 Section shall not apply to any facility, service agency, or
11 support agency licensed or certified by a State agency other
12 than the Department, unless operated by the Department of
13 Human Services.

14 (Source: P.A. 100-432, eff. 8-25-17.)

15 Section 15. The Health Care Worker Background Check Act is
16 amended by changing Section 25 as follows:

17 (225 ILCS 46/25)

18 Sec. 25. Hiring of people with criminal records by health
19 care employers and long-term care facilities.

20 (a) A health care employer or long-term care facility may
21 hire, employ, or retain any individual in a position involving
22 direct care for clients, patients, or residents, or access to
23 the living quarters or the financial, medical, or personal
24 records of clients, patients, or residents who has been

1 convicted of committing or attempting to commit one or more of
2 the following offenses only with a waiver described in Section
3 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,
4 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,
5 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,
6 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,
7 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,
8 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
9 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
10 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,
11 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,
12 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,
13 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,
14 24-3.8, or 33A-2, or subdivision (a)(4) of Section 11-14.4, or
15 in subsection (a) of Section 12-3 or subsection (a) or (b) of
16 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
17 Code of 2012; those provided in Section 4 of the Wrongs to
18 Children Act; those provided in Section 53 of the Criminal
19 Jurisprudence Act; those defined in subsection (c), (d), (e),
20 (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the
21 Cannabis Control Act; those defined in the Methamphetamine
22 Control and Community Protection Act; those defined in
23 Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the
24 Illinois Controlled Substances Act; or subsection (a) of
25 Section 3.01, Section 3.02, or Section 3.03 of the Humane Care
26 for Animals Act.

1 (a-1) A health care employer or long-term care facility
2 may hire, employ, or retain any individual in a position
3 involving direct care for clients, patients, or residents, or
4 access to the living quarters or the financial, medical, or
5 personal records of clients, patients, or residents who has
6 been convicted of committing or attempting to commit one or
7 more of the following offenses only with a waiver described in
8 Section 40: those offenses defined in Section 12-3.3,
9 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36,
10 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or
11 24-3.3, or subsection (b) of Section 17-32, subsection (b) of
12 Section 18-1, or subsection (b) of Section 20-1, of the
13 Criminal Code of 1961 or the Criminal Code of 2012; Section 4,
14 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card
15 Act; or Section 11-9.1A of the Criminal Code of 1961 or the
16 Criminal Code of 2012 or Section 5.1 of the Wrongs to Children
17 Act; or (ii) violated Section 50-50 of the Nurse Practice Act.

18 A health care employer is not required to retain an
19 individual in a position with duties involving direct care for
20 clients, patients, or residents, and no long-term care
21 facility is required to retain an individual in a position
22 with duties that involve or may involve contact with residents
23 or access to the living quarters or the financial, medical, or
24 personal records of residents, who has been convicted of
25 committing or attempting to commit one or more of the offenses
26 enumerated in this subsection.

1 (b) A health care employer shall not hire, employ, or
2 retain, whether paid or on a volunteer basis, any individual
3 in a position with duties involving direct care of clients,
4 patients, or residents, and no long-term care facility shall
5 knowingly hire, employ, or retain, whether paid or on a
6 volunteer basis, any individual in a position with duties that
7 involve or may involve contact with residents or access to the
8 living quarters or the financial, medical, or personal records
9 of residents, if the health care employer becomes aware that
10 the individual has been convicted in another state of
11 committing or attempting to commit an offense that has the
12 same or similar elements as an offense listed in subsection
13 (a) or (a-1), as verified by court records, records from a
14 state agency, or an FBI criminal history record check, unless
15 the applicant or employee obtains a waiver pursuant to Section
16 40 of this Act. This shall not be construed to mean that a
17 health care employer has an obligation to conduct a criminal
18 history records check in other states in which an employee has
19 resided.

20 (c) A health care employer shall not hire, employ, or
21 retain, whether paid or on a volunteer basis, any individual
22 in a position with duties involving direct care of clients,
23 patients, or residents, who has a finding by the Department of
24 abuse, neglect, misappropriation of property, or theft denoted
25 on the Health Care Worker Registry.

26 (d) A health care employer shall not hire, employ, or

1 retain, whether paid or on a volunteer basis, any individual
2 in a position with duties involving direct care of clients,
3 patients, or residents if the individual has a verified and
4 substantiated finding of abuse, neglect, or financial
5 exploitation, as identified within the Adult Protective
6 Service Registry established under Section 7.5 of the Adult
7 Protective Services Act.

8 (e) A health care employer shall not hire, employ, or
9 retain, whether paid or on a volunteer basis, any individual
10 in a position with duties involving direct care of clients,
11 patients, or residents who has a finding by the Department of
12 Human Services denoted on the Health Care Worker Registry of
13 physical or sexual abuse, financial exploitation, ~~or~~ egregious
14 neglect, or material obstruction of an investigation of an
15 ~~individual denoted on the Health Care Worker Registry.~~

16 (Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."