

HOUSE No. 4063

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 8, 2014.

The committee on Children, Families and Persons with Disabilities to whom was referred the joint petition (accompanied by bill, House, No. 151) of Tom Sannicandro and others for legislation to assist people with disabilities in realizing their rights and exercising their responsibilities, reports recommending that the accompanying bill (House, No. 4063) ought to pass.

For the committee,

KAY KHAN.

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The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to real lives.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 19B of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by inserting the following sections:

3 Section 19.

4 (a) As used in this section, the following words shall have the following meaning:

5 (1) “Department”, the Department of Developmental Services.

6 (2) “DPPC”, the Disabled Persons Protection Commission.

7 (3) “Financial management service”, a service or function provided by an entity to assist
8 a participant in managing and directing funds in an individual budget and ensure that a
9 participant has the financial resources to implement the participant's ISP throughout an entire
10 year. A financial management service may include a service or function that facilitates the
11 employment of service and support workers by a participant, including, but not limited to,
12 payments, fiscal accounting, tax withholding, compliance with relevant state and federal
13 employment laws, verification of provider qualifications, conduct of criminal background
14 checks, and expenditure reports. The financial management service shall owe the participant a
15 fiduciary duty and shall meet minimum qualifications as determined by the department.

16 (4) “Independent facilitator”, a person who may be selected and directed by the
17 participant and who does not otherwise provide services, supports or goods to the participant
18 under the participant's ISP and is not employed by a person providing services, supports or goods
19 to the participant; provided, however, that the participant may use a state employee, including a
20 department caseworker or service coordinator, as an independent facilitator. The independent
21 facilitator shall owe the participant a fiduciary duty and meet minimum qualifications as
22 determined by the department. The independent facilitator may assist the participant to make

informed decisions with respect to an individual budget, locate, access and coordinate services, supports or goods consistent with the participant's ISP, and otherwise realize objectives consistent with self-determination. The independent facilitator may assist in identifying immediate and long-term needs, developing options to meet those needs and consulting to or advocating on behalf of the participant in the process of planning and developing the participant's ISP and obtaining associated services, supports or goods. Costs of the services of an independent facilitator shall be paid by participant out of participant's individual budget. An independent facilitator shall obtain training with respect to self-determination and other objectives and responsibilities described in this paragraph at the facilitator's own expense.

(5) "Individual budget", an allocation of government funds and resources under participant's control in an amount to be calculated by the department based on the participant's assessed needs in consultation with the participant and the participant's ISP team to facilitate self-determination and specifically the selection, purchase and use by participant of services, supports or goods identified or referenced in the ISP, which services, supports or goods may include existing offerings from providers or local businesses, employment or other utilization by participant of his or her choice of support workers and sources, or participant's negotiation of unique service arrangements with local businesses and community resources. In setting an individual budget, the department may require that wages earned by a participant be taken into account. The participant's individual budget shall be attached to the participant's ISP.

(6) "Individual support plan" or "ISP", a written document developed by the department with the fullest possible participation of the individual receiving department services and the individual's ISP team and created to meet the individual's needs and objectives and ensure the individual's health and safety. In instances in which the ISP, at the initiative of the individual receiving department services or the individual's guardian, implements self-determination and enables the individual to become a participant in the self-determination program, the ISP team shall include the individual's guardian, if any; a representative of the individual's financial management service, if any; the individual's independent facilitator, if any; the service coordinator assigned by the department; and participant's chosen allies, including but not limited to parents, friends and family.

(7) "Participant", an individual with disabilities receiving department services and, when appropriate, an individual's parents, legal guardian, conservator or other authorized representative, who has voluntarily agreed to take part in, and has been deemed eligible for, the self-determination program.

(8) "Self-determination", the capacity to act in accord with one's own judgment and preferences, specifically with respect to management of an individual budget and the selection, purchase and use of services, supports and goods identified or referenced in a participant's ISP, and to approve the timing and modes of interaction with providers, family, friends, community and others, to the extent permitted by state and federal law and departmental regulation.

61 (9) "Self-determination program", an approach to administering a model of service
62 delivery that recognizes that persons with disabilities have the same rights and responsibilities as
63 other citizens and grants self-determination and control of an individual budget to individuals
64 receiving department services.

65 (b) The department shall implement a statewide self-determination program that, subject
66 to an individual budget based on the person's assessed needs, provides each participant with
67 significant flexibility, choice and control in purchasing home and community based services,
68 supports or goods.

69 (c) The department shall establish a statewide self-determination advisory board to
70 advise the department on efforts to implement, publicize, evaluate, improve and develop
71 information regarding the program. The advisory board shall have 21 members, including but not
72 limited to participants, family members, legal representatives or guardians of participants,
73 financial management services, independent facilitators, providers of direct services, supports
74 and goods, department staff, members of advocacy organizations, members representing general
75 taxpayers, and independent experts on consumer decision-making, consumer finance, self-
76 determination models, nonprofit and for-profit services markets and competition, and services
77 for persons with disabilities; provided, however, that more than 50 per cent of the advisory board
78 shall consist of participants, family members, independent experts, members of organizations
79 representing general taxpayers, and other persons financially independent of any entity providing
80 direct services, supports or goods to persons with disabilities; provided further, that the
81 department shall appoint members to the board, excepting that each of the following entities
82 shall appoint at least one member of the board: the DPPC, the office of the inspector general and
83 the office of the state auditor.

84 (d) Each of the department's area offices shall establish a local volunteer advisory
85 committee to provide oversight of the self-determination program. The committee shall consist
86 of participants, family members, advocates and community representatives and leaders. The
87 committee shall review the development and operation of the self-determination program and
88 may make recommendations to the area office and the department.

89 (e) The department, in consultation with the DPPC, the statewide self-determination
90 advisory board and local advisory committees, shall develop informational materials and training
91 for relevant staff regarding self-determination. Training shall include discussion of the concept
92 and practice of self-determination and the mechanics of the self-determination program,
93 including but not limited to development of individual budgets, selection, purchase and use of
94 services, supports and goods by participants, provider and services purchase, selection and
95 supervision, and the respective roles of independent facilitators, financial management services,
96 and the department; and ways and means of identifying and reporting instances of suspected
97 waste, fraud and abuse.

(f) The department, in establishing and administering a self-determination program, shall:

(1) Facilitate and assist in the preparation of an ISP and individual budget by each participant and, at participant's election, selection of a financial management service and independent facilitator;

(2) Disclose, in a format that employs standard categories of services, supports and goods and enables participant and participant's ISP team to compare various combinations of possible budget expenditures, each unit cost, reimbursement or rate negotiated by or otherwise known to the department that is likely to be charged against a participant's individual budget for each specific service, support or good supplied by a specific provider, vendor or person in the event participant makes use of said service, support or good as part of participant's ISP, including any unit cost, reimbursement or rate negotiated by or otherwise known to the department likely to be charged against said budget by a specific provider or vendor of financial management services or independent facilitation services. In instances in which a specific provider, vendor or person supplies participants a service, support or good whose unit cost, reimbursement or rate is not known to the department, the department shall, beginning in the second year after said provider, vendor or person is in receipt of \$25,000 or more in total department funds, calculate and disclose the average cost, reimbursement or rate charged by said provider, vendor or person for said service, support or good. However, the department shall not disclose any information that may violate the privacy protections in section 7 of chapter 4, section 2 of chapter 66A, section 17 of chapter 123B or any other state or federal privacy law;

(3) Set minimum qualifications for financial management services and their employees, contractors and agents, and independent facilitation services and their employees, contractors and agents, and provide a list to participant of the persons or organizations qualified to provide such services;

(4) Set individual budgets annually in a fair, equitable and transparent manner, in consultation with participant and participant's ISP team and in accordance with paragraph (l) of this section; provided, that each individual budget shall be set forth by line item or element according to standard categories promulgated by the department of services, supports and goods; provided, further, that each budget shall be further divided into services, supports and goods whose unit cost, reimbursement or rate has been negotiated by the department versus services, supports and goods whose unit cost, reimbursement or rate has not been negotiated by the department; provided, further, that the department, participant and participant's ISP team shall consult information on past spending by category but shall not be obligated to allocate any individual budget accordingly; provided, further, that if the department, in accord with paragraph (l), develops alternative methodologies for calculating individual budgets or for adjusting individual budgets to address a participant's change in circumstances, needs or resources, these alternative methodologies shall result in individual budgets calculated in a fair, transparent, and equitable manner;

(5) At its election and in consultation with the self-determination advisory board, develop alternative methodologies for computing individual budgets, which may include a method for adjusting individual budgets in accord with paragraph (l) of this section to address a participant's change in circumstances or needs, and all of which shall be applied in a fair, transparent, and equitable manner, based on relevant participant characteristics and needs;

(6) Ensure that the dollar value of a participant's individual budget is equivalent to the amount the department would have spent providing services, supports or goods to participant if the participant had chosen to receive services, supports and goods through a traditional service model supported by the department;

(7) Allocate and outlay funds for individual budgets to participants in a timely manner so as to allow participants to purchase services, supports or goods without experiencing an interruption in their services;

(8) Promulgate standard forms on which the financial management service for each participant shall annually report participant's total expenditures for the year, which report shall identify each specific provider, vendor or supplier of services, supports or goods and be subdivided into the standard categories promulgated by the department of services, supports and goods, and further subdivided into services, supports and goods whose unit cost, reimbursement or rate was negotiated by the department versus services, supports and goods whose unit cost, reimbursement or rate was not negotiated by the department;

(9) Designate a single entity to serve as the qualified financial management service for all participants during the initial three years of the self-determination program; provided, further, that said service shall negotiate with the department uniform rates for each given unit of service, to be paid by each participant from participant's individual budget; provided, further, that if the department exercises the option described in this subparagraph, after the initial three years the department may designate additional entities as qualified financial management services upon a determination by the department that providing additional service options will not materially increase participants' costs or have a material adverse effect on the department's oversight of individual budgets; provided, further, that the department may subsequently reduce the number of qualified financial management services to control costs or enhance oversight of individual budgets; provided, however, the department may opt not to require a participant to use the designated financial management service if the participant is using the "agency with choice model" allowed for under section 1915(c) of the Social Security Act, codified at 42 U.S.C. 1396n et seq.;

(10) Monitor the expenditure of funds from individual budgets;

(11) Make significant efforts to ensure that participants in the program are reasonably representative of the diversity of individuals eligible for services from the department;

(12) Facilitate individual and family understanding of self-determination and related issues of budgeting, planning, service and provider selection, and staff and employee management;

(13) Provide information on the department's web site about all service options, including but not limited to self-determination and all options for residential placements. The department shall also provide such information to a person eligible for services upon:

(A) notification to a person of priority for services;

(B) commencement of the development of an ISP;

(C) commencement of the renewal of an ISP;

(D) annual notification to persons who have declined an ISP of their option to participate in the ISP; and

(E) the person's entry into the department's turning 22 program;

(14) Within six months of the effective date of this section and at least annually thereafter, facilitate participant access to comparative information by requiring the submission within forty-five days of information, in standard comma-separated values or "CSV" format, from any provider, vendor or supplier of supports, services or goods in receipt of \$25,000 or more in department funds during any calendar year within three years preceding the year in which the department requires said information, which information shall enable participants and ISP team members to develop individual budgets, compare providers, vendors and suppliers, and make informed judgments regarding the comparative costs and features of each service, supply and good available at each geographic location maintained by each provider, vendor or supplier. Said submissions shall not impose burdens on providers, vendors and suppliers that are not reasonably necessary to realize the purpose of this paragraph and shall not violate the privacy rights of individual participants and their family members. Within ninety days of the department's receipt of said information, the department shall make said information available on department's website for download and re-use by interested parties, including but not limited to participants, family members, guardians, financial management services, independent facilitators, electronic and print publishers and software developers. However, the department shall not disclose any information that may violate the privacy protections in section 7 of chapter 4, section 2 of chapter 66A, section 17 of chapter 123B or any other state or federal privacy law. Said information shall be provided in standardized units and categories prescribed by the department and shall include but need not be limited to the:

(A) Organizational structure, history and performance, including but not limited to (1) complete legal name of the provider, vendor or supplier; (2) legal structure and organizational

type (e.g., nonprofit, LLC, for-profit, government); (3) accreditation and licensure status; and (4) url web address location of recent formal audits, reports and investigations.

(B) Services, supports and goods offered at each geographic location by said provider, vendor or supplier, including but not limited to (1) hours and schedules of availability of each service, support or good; (2) clinical diagnoses or medical conditions of participants served by each service, support or good; (3) provisions regarding the supervision, storage and dispensation of prescription medications; and (4) any special or non-standard eligibility requirements or restrictions.

(C) Facilities available and in good operating order at each geographic location, including but not limited to (1) precise street address; (2) availability of or proximity to public transportation; (3) availability of or proximity to grocery shopping and other commercial activity; (4) hours of operation; (5) accessibility by mobility-impaired individuals; (6) for residential facilities, number and type of bedrooms (e.g., single, doubles, triples); (7) options regarding meal preparation, kitchen access and dining, including the availability of staff.

(D) Non-medical staff at each geographic location, including but not limited to (1) number of staff in each staff category; (2) educational and professional attainments of staff; (3) ratio of staff to client for each shift; and (4) average tenure, in years and months, of staff who work at least 16 hours a week.

(E) Medical staff, services, hours or supports available at or nearby each geographic location, including but not limited to (1) educational and professional attainments of medical staff; (2) indications of whether listed staff, services and supports are available onsite or rather nearby.

(F) Characteristics of individuals receiving services, supports and goods at each geographic location, including but not limited to (1) number of clients; (2) age range; (3) gender distribution; (4) average duration, in years and months, of their receipt of services, supports and goods from said provider, vendor or supplier.

(15) In cooperation with advocacy organizations, hold meetings, briefings and orientations, as it deems necessary, with providers, organizations and businesses to offer introductory and on-going information on self-determination and discuss ways the department can work with parties to establish and improve services, supports or goods that facilitate self-determination; provided, however, that the department shall hold a meeting, briefing or orientation at least once annually during the first three years of the self-determination program.

(16) Ensure that the participant and the participant's ISP team comprehend and commit to appropriate means of identifying, monitoring, preventing and reporting to the DPPC suspected instances of abuse or neglect of participants, including financial abuse;

(17) Subject to privacy laws, including but not limited to chapter 19B and title 115 of the Code of Massachusetts Regulations, provide information sufficient to enable third-party research and academic organizations to survey, on a periodic basis, participants, guardians, family members, financial management services, independent facilitators and present and potential providers, vendor and suppliers regarding their experiences with and perceptions of self-determination and the self-determination program, their satisfaction with the program, and their views regarding potential improvements to the program concept or implementation. Individual names and identities of participants and family members shall be kept confidential and shall not be disclosed or included in any reports compiled under this paragraph;

(18) Provide, in consultation with the self-determination advisory board, an annual report to the committee on ways and means of each branch of the general court and to the general court's joint committee on children, families and persons with disabilities, provided that individual names and identities of participants and family members shall be kept confidential and shall not be disclosed or included in a report compiled under this paragraph. Said report shall set forth any alterations or improvements made by the department to the program under its existing authority, any recommendations for statutory change the department may wish to make, and any other matters the department may wish to mention. Said report shall assess the performance of the providers, vendors and persons who have received funds for the provision of services, supports and goods under this section. Said report shall also include the:

(A) Number and characteristics of participants in the self-determination program during the year, further subdivided by geographic area within the state;

(B) Types and amounts of services, supports or goods purchased under the program, using, in a manner that facilitates analyses and year to year comparisons, the uniform budget categories developed under subparagraphs (2), (4), (6) and (9) of this paragraph, subdivided further into services, supports and goods whose unit cost, reimbursement or rate was negotiated by the department versus services, supports and goods whose unit cost, reimbursement or rate was not negotiated by the department;

(C) Ranges and averages for expenditures from all individual budgets, inclusive of any adjustments to individual budgets made pursuant to paragraph (l) of this section;

(D) Number of participants who withdrew voluntarily from the program;

(E) Number of participants who requested changes in type of service, support or good or changes of providers pursuant to section 19 or 20 of this chapter and an analysis of why such changes might have been made;

(19) Provide, except as is necessary to comply with privacy laws, any information requested by the attorney general, state auditor, inspector general, senate or house committees on

277 post audit and oversight or the DPPC to investigate suspected neglect, or physical, emotional or
278 financial abuse. The superior court shall have jurisdiction over any disputed request for such
279 information.

280 (g) Participation in the program shall be available to any person, including any person
281 with complex medical or behavioral conditions, any person with profound intellectual
282 impairments and any person qualified for services through special eligibility, who is eligible to
283 receive services from the department, whose election into a self-determination program is
284 eligible for federal financial participation as determined by the Centers for Medicare and
285 Medicaid Services, and who agrees to the following terms and conditions:

286 (1) Participant and participant's ISP team shall be responsible for implementation of the
287 ISP, including the hiring or purchasing of necessary services, supports or goods;

288 (2) Participant shall utilize the services of a financial management service of participant's
289 choosing, subject to any qualifications for financial management services set by the department;

290 (3) Participant and participant's ISP team members shall attend an orientation prior to
291 enrollment, the subject matter of which shall include but need not be limited to the concept and
292 practice of self-determination, related issues of budgeting, planning, services and provider
293 selection, staff and employee management, and the respective roles of independent facilitators,
294 financial management services, and the department; provided, however, that each member of the
295 ISP team shall not be required to attend more than one such orientation each year; and

296 (4) Participant shall comply with all other terms and conditions for program participation
297 set by the department.

298 (h) An individual who is not MassHealth-eligible may participate in the self-
299 determination program provided that all other program eligibility requirements are met and the
300 participant's purchase or hiring of services, supports or goods is otherwise eligible for federal
301 financial participation.

302 (i) Participation in the self-determination program shall be voluntary. An individual may
303 choose to take part in or exit the program at any time. The department shall not require or
304 prohibit participation in the program as a condition of eligibility for, or delivery of, services,
305 supports or goods otherwise available.

306 (j) If at any time the department determines that a participant is no longer eligible to
307 continue in, or a participant voluntarily chooses to exit, the self-determination program, the
308 department shall provide for the participant's transition to other eligible services or supports.
309 This transition shall include the development of a new ISP that reflects the services, supports and
310 goods necessary to meet the individual's needs and objectives. The department shall ensure that
311 there is no gap in services, supports or goods during the transition period.

(k) An individual determined to be ineligible for, or who voluntarily exits, the self-determination program shall be permitted to return to the program upon meeting all applicable eligibility criteria, provided that an individual who has voluntarily exited the program shall not return to the program for at least 12 months. During the first three years of the program, the individual's right to return to the program shall be conditioned on the availability of appropriate services, supports and goods.

(l)(1) Except as provided in paragraph (4) below, the department, in consultation with participant and participant's ISP team, shall determine the initial and any revised individual budget for the participant using the following methodology:

(A)(i) Except as specified in clause (ii), for a participant who is a current consumer of department services, the individual budget shall provide a dollar amount equal to the total dollar amount expended on services, supports and goods for participant over the most recently available twelve months, adjusted for changes to the participant's assessed needs and any recent or upcoming increases or decreases in unit costs, reimbursements or rates negotiated by or otherwise known to the department.

(ii) An adjustment may be made to the amount specified in clause (i) if:

(I) The department, in consultation with the ISP team, determines that an adjustment to this amount is necessary due to a change in the participant's circumstances, needs, or resources that will result in an increase or decrease in the purchase of services, supports or goods, or the department, in consultation with the ISP team, identifies prior needs or resources that were unaddressed in the existing ISP; and

(II) The department certifies on the individual budget document that all expenditures authorized therein, including any adjustment, would have occurred regardless of the individual's participation in the self-determination program.

(iii) An individual budget shall not be increased to cover the cost of an independent facilitator.

(B) For a participant who is either newly eligible for department services or for whom the total amount expended on services, supports and goods over the most recently available twelve months is not available to the department, the individual budget shall be calculated as follows:

(i) The ISP team, in consultation with the department, shall determine the services, supports and goods needed by participant;

(ii) The department shall calculate the costs of providing said services, supports or goods by using, when available, the unit cost, reimbursement or rate, negotiated by or otherwise known to the department, for said services, supports and goods, adjusted for any recent or upcoming increases or decreases in unit costs, reimbursements or rates negotiated by or otherwise known to

the department; provided that, in instances in which a participant elects to procure a service, support or good whose unit cost, reimbursement or rate is not negotiated by or otherwise known to the department, the department shall make its best efforts to ascertain and include in the budget the average or typical cost of said service, support or good; provided, further, that the department may allow an amount differing from the unit cost, reimbursement or rate negotiated by or otherwise known to the department or the ascertained average or typical cost if the department determines that the participant has a unique need necessitating a higher or lower amount;

(iii) The department shall certify on the individual budget document that the amounts set forth therein would have been expended regardless of the individual's participation in the self-determination program; and

(iv) Individual budgets calculated in accord with this paragraph shall not be increased to cover the cost of a financial management service or an independent facilitator;

(2) The amount of the individual budget shall be available to the participant each year for the purchase of program services, supports or goods. An individual budget may be recalculated based on the assessed needs of the participant.

(3) Employees of entities providing services, support and goods to participants shall be eligible for a proportional amount of any additional appropriation designated for the increase of salary for workers employed by the department or its providers.

(4) The department may increase or decrease individual budgets to reflect any change in appropriations to the department to provide services; provided, however, that any change to an individual budget shall be proportional to the overall change in appropriations.

(m)(1) Within 12 months of this section taking effect, the department shall apply for federal Medicaid funding for the self-determination program by:

(A) Applying for a state plan amendment;

(B) Applying for an amendment to a current home- and community-based waiver for individuals with developmental disabilities;

(C) Applying for a new waiver; or

(D) Seeking to maximize federal financial participation through other means.

(2) In adopting or modifying regulations pursuant to the authority granted to the department by this section, the department shall endeavor to maximize federal financial participation in, or funding or reimbursement for, the self-determination program.

379 (3) The department's implementation of the self-determination program created by this
380 section shall be contingent upon approval of federal funding.

381 (n) Within five years of the effective date of this act, the department shall contract with
382 an independent research organization or academic institution to evaluate the self-determination
383 program authorized by this section and recommend any improvements that may, in the
384 evaluator's judgment, be warranted.

385 (o) Each financial management service shall provide the participant and the department
386 with a monthly individual budget statement, which statement shall present budget line items or
387 elements in accord with the standard categories of services, supports and goods promulgated by
388 the department pursuant to this section, further subdivided into services, supports and goods
389 whose unit cost, reimbursement or rate was negotiated by the department versus services,
390 supports and goods whose unit cost, reimbursement or rate was not negotiated by the department,
391 and setting forth the total amount of funds allocated by category for the year, the amount spent
392 by category in the previous month, the amount of cumulative spending by category for the year,
393 and the amount by category that remains to be spent.

394 (p) The department, in consultation with the self-determination advisory board, shall
395 determine which persons shall be subject to criminal background checks as a condition of
396 providing services, supports or goods to participants, and shall promulgate or amend its
397 regulations as necessary to require and implement said criminal background checks; provided,
398 however, that in no circumstances shall a participant be required to pay the cost of a criminal
399 background check required under this section.

400 (q)(1) Any member of a participant's ISP team, any member of the advisory board
401 referenced in paragraph (c), any member of a local volunteer advisory committee referenced in
402 paragraph (d), any mandated reporter of the DPPC as defined in section 1 of chapter 19C and any
403 other person involved in preparation or implementation of the self-determination plan who
404 suspects any financial abuse, including but not limited to mismanagement, misappropriation or
405 waste of a participant's self-determination funds shall immediately report these suspicious
406 actions or inactions to the DPPC. The DPPC shall evaluate this report and forward said report to
407 the appropriate law enforcement or state agency according to the geographic location of the
408 alleged crime or alleged perpetrator, but in all cases shall forward all reports of suspected
409 financial abuse to the state auditor. The DPPC shall provide an annual itemization to the joint
410 committee on children, families and persons with disabilities detailing the number, types and
411 geographic locations of specific reports and the agency or agencies to which the complaint was
412 referred.

413 (r) The attorney general, in consultation with the DPPC and the department, shall
414 recommend to the joint committee on children, families and persons with disabilities, the senate
415 and house committees on ways and means and the senate and house committees on post audit

and oversight laws and regulations that provide penalties for financial abuse, mistreatment, waste, abuse, fraud or criminal activity involving self-determination and the self-determination program, which penalties may include but need not be limited to loss of qualifications to provide services to participants in the self-determination program, removal of guardianship, and recovery of any individual budgets funds lost; provided, however, that the department shall enact in regulations those penalties recommended by the attorney general which the department has the legal authority to implement.

(s) The department, as it determines necessary, shall adopt or modify regulations to implement this section.

(t) The state auditor, using the powers granted to it under section 12 of chapter 11, shall audit the self-determination program at least once during the first four years of its operation and periodically thereafter, as the state auditor determines necessary.

(u) The inspector general, using the powers granted to it under chapter 12A, shall audit the self-determination program at least once during the first four years of its operation and periodically thereafter, and shall make recommendations to the department, the senate and house committees on ways and means, and the joint committee on children, family and persons with disabilities with respect to any changes in law or regulation that may improve the efficiency of the program, decrease costs, improve services or prevent waste, fraud or abuse.

(v) The attorney general or the department may independently investigate any allegations of mistreatment, waste, abuse, fraud or breach of any explicit or implied duties under this section; provided, further, that the attorney general or the department, on behalf of a participant, may seek to recover any monies lost because of mistreatment, waste, abuse, fraud or breach of any explicit or implied duties under this section in the superior court.

Section 20. Each provider, vendor and personal supplier of services, supports or goods in receipt of \$25,000 or more in department funds during any one calendar year within the three years preceding a year in which the department requires said provider, vendor or supplier to submit information under section 19 of this chapter shall submit said information to the department in standard CSV format for each geographic location maintained by provider, vendor or supplier and shall grant an unrestricted right of publication and re-use of said information by department, participants, family members, guardians, financial management services, independent facilitators, electronic and print publishers and software developers. Said information shall be of the nature and characteristics defined by the department, shall be provided in standardized units and categories as defined by the department, and shall be updated by the provider, vendor or supplier at least annually or upon the occurrence of material changes in the provider's, vendor's or supplier's offerings, whichever comes first.