§ 553. Powers and duties of the justice center. The justice center shall have the following powers and duties:

1. To create and establish the statewide vulnerable persons' central register, as set forth in section four hundred ninety-two of the social services law, which shall include, but not be limited to:

(a) establishing procedures for the timely response to, and effective investigation of, allegations of reportable incidents that are accepted by the statewide vulnerable persons' central register;

(b) establishing procedures for the notification of appropriate persons and entities with respect to reports and findings of reportable incidents;

(c) representing the state in all administrative hearings and other administrative proceedings relating to discipline of state employees and adjudication of individuals charged with having committed or found to have committed abuse or neglect, as defined in subdivision eleven of section four hundred eighty-eight of the social services law (for state entities bound by collective bargaining, the disciplinary process established through collective bargaining shall govern);

(d) identifying a process for a coordinated approach to avoid duplication and provide for timely responses to allegations of reportable incidents in dually licensed or co-located facilities and provider agencies, which shall include designation of a lead agency primarily responsible for carrying out the responsibilities of a facility or provider agency pursuant to article eleven of the social services law, including but not limited to incident management and reporting, provided that in making any such designation or re-designation of such lead agency, consideration shall be given to the following factors: the proportion of services provided or recipients served in the dually licensed or co-located facilities and provider agencies pursuant to each license or certification granted by a state oversight agency, the recommendations of the respective state oversight agencies that granted such licensure or certification, and the designation or re-designation that would best protect the health, safety and welfare of vulnerable persons served by such facilities and provider agencies; provided, further that once designated, a lead agency shall only be re-designated as necessary to protect the health, safety and

welfare of vulnerable persons served by such facilities and provider agencies;

(e) where applicable, establishing uniform procedures for character and competence reviews of provider agencies initially, and upon renewal of licenses and operating certificates requiring a review of performance records regarding incident management, the role of the board of directors in maintaining oversight over agency performance in this area, and the management of reportable incidents affecting the safety of vulnerable persons, including cases of systemic problems; and

(f) establishing training curricula for employers and employees who provide care and treatment to vulnerable persons, and those who are in supervisory positions with respect to such employees, regarding their obligations to report, investigate and prevent reportable incidents. Training and curricula shall address topics, including but not limited to: (i) how to identify and report reportable incidents; (ii) the prevention of abuse and neglect; (iii) the duty to report reportable incidents; (iv) how to adhere to applicable codes of conduct; (v) the disciplinary process and employees' rights pursuant to this article; and (vi) how supervisory staff and management can promote compliance with this article by new and existing employees. Such training, which shall be given on a periodic basis, shall include, but not be limited to, live training and supplemental courses accessible via the internet. Prior to implementation of this article, the justice center shall provide adequate interactive training, which shall include live training to the extent practicable. Employees may call the hotline established pursuant to subdivision two of section four hundred ninety-two of the social services law, and upon inquiry, be given advice and assistance in complying with their obligations and duties pursuant to this article.

2. To maintain a central repository for data relating to the investigation of all reportable incidents;

3. To establish procedures for review of reportable incidents, to identify preventive and corrective actions and to develop and implement such actions and plans of improvement subject to the requirements of any federal oversight entity;

4. To develop standards and training curricula for investigators who will be assigned to investigate reportable incidents involving vulnerable persons, and to provide periodic training to such investigators. Such standards, curricula and training shall address topics including, but not limited to: (a) how to identify and investigate reportable incidents; (b) the duty to report reportable incidents; (c) the requirements of all codes of conduct; (d) all applicable disciplinary processes; (e) protocols and procedures pursuant to subdivision twenty-eight of this section; and (f) employees' rights pursuant to this article;

5. To review and evaluate the criminal history information for any person applying to be an employee, volunteer or consultant for whom a criminal background check is required by law as a condition of employment at any facilities or provider agencies as defined in subdivision four of section four hundred eighty-eight of the social services law that are operated, licensed or certified by the office of mental health, the office for people with developmental disabilities and the office of children and family services. Such review and evaluation shall include but not be limited to a requirement that the applicant sign a sworn statement whether, to the best of his or her knowledge, he or she has ever been convicted of a crime in this state or any other jurisdiction;

6. To conduct periodic orientation, training and informational programs upon appointment or reappointment, and as otherwise needed, to assist the members of the boards of visitors of mental hygiene facilities to fulfill their responsibilities pursuant to law;

7. (a) To visit, inspect and appraise the management of facilities or provider agencies as defined in subdivision four of section four hundred eighty-eight of the social services law providing services to vulnerable persons, and residential schools or facilities located outside of New York state that are at that time serving any residents of the state of New York as set forth in subdivision five of section four hundred ninety of the social services law, with specific attention to the safety, security and quality of care provided to patients and residents;

(b) To provide staff and other necessary assistance upon request to boards of visitors of department of mental hygiene facilities in performing their duties pursuant to law;

(c) To receive and review periodic and annual reports of the boards of visitors of each department of mental hygiene facility;

(d) To place such members of its staff as it deems appropriate as monitors in any facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law which, in the judgment of the executive director, presents an imminent danger to the health or safety of the patients, residents or employees of such facility;

8. To accept, as agent of the state, any grant, including federal grants, or any gift for any of the purposes of this article. Any moneys so received may be expended by the justice center to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article;

9. To enter into contracts with any person, firm, corporation, municipality or governmental agency for the performance of functions authorized by law;

10. To administer an adult home and residence for adults resident advocacy program to assist residents, who have at any time received or are receiving services from a mental hygiene provider, of adult homes and residences for adults, as defined in section two of the social services law, where at least twenty-five percent or twenty-five residents, whichever is less, have at any time received or are receiving services from a mental hygiene provider which is licensed, operated or funded by the office of mental health or office for people with developmental disabilities, in understanding their legal rights, and to promote and protect the rights of such residents.

11. To advise and assist vulnerable persons and individuals with disabilities, family members, advocates, service providers and community organizations in the formation of strategies to identify and meet the

needs of vulnerable persons and individuals with disabilities for services, supports and advocacy;

12. To advise and assist the governor and public and private entities in the development and implementation of state policies which meet the needs of vulnerable persons and individuals with disabilities in a manner that is respectful of the rights and choices of vulnerable persons and individuals with disabilities;

13. To serve as a clearinghouse for information relating to services, supports and advocacy for vulnerable persons and individuals with disabilities and provide a statewide system of information and referral to link persons seeking information and assistance with public and private sector services, supports and advocacy which may be appropriate to meet their needs;

14. To advise and assist the governor, state agencies, vulnerable persons, individuals with disabilities and public and private sector entities in the design and implementation of initiatives to increase access to technology related assistance for vulnerable persons and individuals with disabilities;

15. To administer the surrogate decision-making committee program, as authorized pursuant to article eighty of the mental hygiene law;

16. To stimulate community interest in the problems experienced by vulnerable persons and individuals with disabilities and promote public awareness of resources available to such persons and individuals;

17. To advise and assist political subdivisions of the state in the development of local programs for vulnerable persons and individuals with disabilities;

18. To advise and assist educational institutions in the state in the development of courses of study for persons engaged in public and private programs for vulnerable persons and individuals with disabilities;

19. To conduct or cause to be conducted such studies of the needs of vulnerable persons and individuals with disabilities as may be appropriate;

20. To do all other things necessary to carry out its functions, powers and duties set forth in this article;

21. To receive and review reports required pursuant to section 16.19 of the mental hygiene law and take any action as required by law. The justice center also shall assist the commissioner of the office for people with developmental disabilities in developing and preparing recommendations required by paragraph three of subdivision (d) of section 16.19 of the mental hygiene law for submission to the governor, temporary president of the senate and speaker of the assembly;

22. To prepare and disseminate an educational pamphlet, and serve as an information clearinghouse, on the rights of parents and legal representatives and advocates to access records and reports relating to patient care and treatment and all other relevant documents from programs and facilities that are licensed, certified or operated by the offices of mental health, people with developmental disabilities, alcoholism and substance abuse services, and children and family services, and the department of health and the state education department. Such pamphlet shall include a discussion of how to appeal a decision denying a requested record or report;

23. To consult with the commissioner of education regarding the promulgation of rules and regulations requiring that every school bus driver and school bus attendant serving students with disabilities receive training and instruction relating to the understanding of and attention to the special needs of such students pursuant to subdivision one of section thirty-six hundred fifty of the education law and subdivision four of section twelve hundred twenty-nine-d of the vehicle and traffic law;

24. To monitor and make recommendations regarding the quality of care

provided to incarcerated individuals with serious mental illness, including those who are in a residential mental health treatment unit or segregated confinement in facilities operated by the department of corrections and community supervision, and oversee compliance with paragraphs (d) and (e) of subdivision six of section one hundred thirty-seven, and section four hundred one of the correction law. Such responsibilities shall be carried out in accordance with section four hundred one-a of the correction law;

25. (a) To make a preliminary determination whether matters referred to its attention, warrant investigation and, if so, conduct an investigation of such scope and duration as it deems necessary and proper;

(b) Make findings concerning such matters referred to its attention and, where it deems appropriate, make a report and recommendations, which shall be provided to the commissioner and to the director of the facility involved. Such commissioner and director shall each make a written response, within ninety days of receipt of such report, of action taken regarding each of the recommendations in the report;

26. To review the cost effectiveness of mental hygiene programs and procedures provided for by law with particular attention to efficiency, effectiveness and economy in the management, supervision and delivery of such programs. Such review may include but is not limited to: (a) determining reasons for rising costs and possible means of controlling them; (b) analyzing and comparing expenditures in mental hygiene to determine the factors associated with variations in costs; and (c) analyzing and comparing achievements in selected samples to determine the factors associated with variations in program success and their relationship to mental hygiene costs; and

27. In its discretion, to review the policies and practices relating to the prevention of abuse or neglect in facilities or provider agencies, including staffing patterns of various service models and the supervision required to help ensure the safety of service recipients.

28. To carry out investigations by observing critical protocols and

procedures to ensure the safety of a vulnerable person or persons in light of their clinical, personal considerations and the need for the timely completion of an effective investigation. Such protocols and procedures shall be developed by the justice center in consultation with the advisory council established pursuant to section five hundred sixty-one of this article and the appropriate state agency. Protocols and procedures developed jointly by the director of the justice center and the respective state oversight agency shall be considered final upon agreement between the director and any such commissioner and shall not depend on a final agreement between the director of the justice center and all affected agency commissioners. Such protocols and procedures shall include:

(a) In the event that it is necessary to obtain information in the course of an investigation from a vulnerable person, protocols and procedures shall be established for ascertaining whether or not interviewing such person is clinically contraindicated prior to such interview taking place. Nothing in this subdivision shall be construed to require a formal clinical assessment prior to interviewing a vulnerable person.

(i) For those vulnerable persons subject to an interview, the justice center shall develop appropriate procedures and protocols to ensure that any interview is conducted safely and in a timely fashion in light of relevant clinical, behavioral and other facts relating to the individual's disability, safety and wellbeing. Such protocols and procedures shall also recognize any ability the vulnerable person may have to advocate on his or her own behalf by providing information to facilitate an investigation to enhance his or her own safety and wellbeing and the safety and wellbeing of others.

(ii) In the event that an interview is clinically contraindicated, despite the provision of appropriate procedures and protocols, including special accommodations for effectively and safely obtaining timely information in light of the person's clinical characteristics such as the presence of a personal representative as defined in section four hundred eighty-eight of the social services law, the vulnerable person shall be exempt from such interview. However, the justice center may determine not to grant such exemption if, in accordance with protocols and procedures developed pursuant to this section, it determines that

there exists an overriding health and safety need to proceed with an interview of the vulnerable person and provided that the justice center takes necessary means to protect such vulnerable person's health, safety and wellbeing during such interview.

(b) Procedures to inform a vulnerable person and/or their personal representative of the protocols used in an interview and that such interview is voluntary. Further, if applicable as determined by the justice center, the vulnerable person shall be informed that any search of the vulnerable individual's person or property shall also be done voluntarily. Such procedures shall include:

(i) Appropriate notification to a vulnerable person as to what to expect in an interview;

(ii) An appropriate means of interviewing a vulnerable person given the limitations such individual may have in comprehending questions as well as given linguistic and cultural barriers to such understanding;

(iii) Appropriate notification, when at all advisable given the nature of an investigation to a personal representative that a vulnerable person shall be questioned or subject to an interview and to enable such personal representative to provide any information which they believe is necessary to protect the individual;

(iv) Procedures for determining under what circumstance a personal representative shall accompany an individual with a disability or a vulnerable person during an interview.

(c) Procedures to facilitate the preparation of pertinent information, including clinical information, necessary to safely conduct an investigation pursuant to this section, including timely notification by the justice center to the appropriate administrative personnel of the agency serving such vulnerable person that such information will be required. Such information shall be readily available to the justice center on a form it prescribes prior to any contact between the justice center and such individual.