



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2102

Introduced 2/7/2023, by Rep. Terra Costa Howard

SYNOPSIS AS INTRODUCED:

225 ILCS 46/25
225 ILCS 46/33

Amends the Health Care Worker Background Check Act. Provides that a health care employer may hire any individual in a position involving direct care for clients, patients, or residents, or access to the living quarters or the financial, medical, or personal records of clients, patients, or residents who has been convicted of committing or attempting to commit specified offenses under the laws of the State, the laws of any other state, or the laws of the United States of an offense that is substantially equivalent to those offenses listed. Provides the names of various offenses that do not bar an individual from being hired by a health care employer. Provides that the Illinois State Police shall: forward an applicant's fingerprints to the Federal Bureau of Investigation; and request the Federal Bureau of Investigation to conduct a national criminal history pertaining to the applicant. Makes corresponding changes.

LRB103 25089 AMQ 51424 b

1 AN ACT concerning regulation.

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

4 Section 5. The Health Care Worker Background Check Act is
5 amended by changing Sections 25 and 33 as follows:

6 (225 ILCS 46/25)

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

9 (a) A health care employer or long-term care facility may
10 hire, employ, or retain any individual in a position involving
11 direct care for clients, patients, or residents, or access to
12 the living quarters or the financial, medical, or personal
13 records of clients, patients, or residents who has been
14 convicted of committing or attempting to commit one or more of
15 the following offenses under the laws of this State, the laws
16 of any other state, or of the laws of the United States of an
17 offense that is substantially equivalent to the offenses
18 listed in this subsection, as verified by court records,
19 records from a state agency, or an FBI criminal history record
20 check, only with a waiver described in Section 40:
21 solicitation of murder, solicitation of murder for hire, first
22 degree murder, intentional homicide of an unborn child, second
23 degree murder, voluntary manslaughter of an unborn child,

1 involuntary manslaughter of an unborn child, involuntary
2 manslaughter and reckless homicide, involuntary manslaughter
3 and reckless homicide of an unborn child, drug-induced
4 homicide, concealment of a homicidal death, kidnapping,
5 aggravated kidnapping, unlawful restraint, aggravated unlawful
6 restraint, forcible detention, child abduction, aiding or
7 abetting child abduction, criminal sexual assault, aggravated
8 criminal sexual assault, predatory criminal sexual assault of
9 a child, criminal sexual abuse, aggravated criminal sexual
10 abuse, indecent solicitation of a child, sexual exploitation
11 of a child, custodial sexual misconduct, presence within a
12 school zone by a child sex offender, approaching, contacting,
13 residing with, or communicating with a child within certain
14 places by a child sex offender, presence or loitering in or
15 near a public park by a sexual predator or child sex offender,
16 sexual misconduct with a person with a disability, permitting
17 sexual abuse of a child, promoting juvenile prostitution,
18 child pornography, assault, aggravated assault, aggravated
19 battery, battery of an unborn child, domestic battery,
20 aggravated domestic battery, abuse or criminal neglect of a
21 long term care facility resident, criminal abuse or neglect of
22 an elderly person or person with a disability, aggravated
23 stalking, dismembering a human body, ritual mutilation,
24 ritualized abuse of a child, endangering the life or health of
25 a child, child abandonment, theft, theft of lost or mislaid
26 property, retail theft, identity theft, aggravated identity

1 theft, forgery, possession of a lost or mislaid credit or
2 debit card, sale of a credit or debit card, use of a
3 counterfeited, forged, expired, revoked, or unissued credit or
4 debit card, fraudulent use of electronic transmission,
5 financial exploitation of an elderly person or person with a
6 disability, robbery, aggravated robbery, armed robbery,
7 vehicular hijacking, aggravated vehicular hijacking, burglary,
8 residential burglary, criminal trespass to a residence, home
9 invasion, arson, aggravated arson, unlawful use of weapons,
10 unlawful use of weapons by felons or persons in the custody of
11 a Department of Corrections facility, aggravated discharge of
12 a firearm, aggravated discharge of a machine gun or a firearm
13 equipped with a device designated or used for silencing the
14 report of a firearm, reckless discharge of a firearm,
15 aggravated unlawful use of a weapon, unlawful possession of a
16 firearm by a street gang member, unlawful discharge of firearm
17 projectiles, unlawful sale or delivery of a firearm on the
18 premises of any school, possession of a stolen firearm, or
19 armed violence ~~those defined in Sections 8-1(b), 8-1.1, 8-1.2,~~
20 ~~9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,~~
21 ~~10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,~~
22 ~~11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,~~
23 ~~11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,~~
24 ~~12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,~~
25 ~~12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,~~
26 ~~12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,~~

1 ~~12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,~~
2 ~~16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,~~
3 ~~19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,~~
4 ~~24-3.8, or 33A-2, or subdivision (a)(4) of Section 11-14.4, or~~
5 ~~in subsection (a) of Section 12-3 or subsection (b) of Section~~
6 ~~17-32 or subsection (a) or (b) of Section 12-4.4a, of the~~
7 ~~Criminal Code of 1961 or the Criminal Code of 2012; those~~
8 ~~provided in Section 4 of the Wrongs to Children Act; those~~
9 ~~provided in Section 53 of the Criminal Jurisprudence Act;~~
10 ~~those defined in subsection (c), (d), (e), (f), or (g) of~~
11 ~~Section 5 or Section 5.1, 5.2, 7, or 9 of the Cannabis Control~~
12 ~~Act; those defined in the Methamphetamine Control and~~
13 ~~Community Protection Act; those defined in Sections 401,~~
14 ~~401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois~~
15 ~~Controlled Substances Act; or subsection (a) of Section 3.01,~~
16 ~~Section 3.02, or Section 3.03 of the Humane Care for Animals~~
17 ~~Act; or violation of Section 50-50 of the Nurse Practice Act..~~

18 This shall not be construed to mean that a health care
19 employer has an obligation to conduct a criminal history
20 records check in other states in which an employee has
21 resided.

22 A health care employer is not required to retain an
23 individual in a position with duties involving direct care for
24 clients, patients, or residents, and no long-term care
25 facility is required to retain an individual in a position
26 with duties that involve or may involve contact with residents

1 or access to the living quarters or the financial, medical, or
2 personal records of residents, who has been convicted of
3 committing or attempting to commit one or more of the offenses
4 enumerated in this subsection.

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

23 ~~A health care employer is not required to retain an~~
24 ~~individual in a position with duties involving direct care for~~
25 ~~clients, patients, or residents, and no long term care~~
26 ~~facility is required to retain an individual in a position~~

1 ~~with duties that involve or may involve contact with residents~~
2 ~~or access to the living quarters or the financial, medical, or~~
3 ~~personal records of residents, who has been convicted of~~
4 ~~committing or attempting to commit one or more of the offenses~~
5 ~~enumerated in this subsection.~~

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

25 (c) A health care employer shall not hire, employ, or
26 retain, whether paid or on a volunteer basis, any individual

1 in a position with duties involving direct care of clients,
2 patients, or residents, who has a finding by the Department of
3 abuse, neglect, misappropriation of property, or theft denoted
4 on the Health Care Worker Registry.

5 (d) A health care employer shall not hire, employ, or
6 retain, whether paid or on a volunteer basis, any individual
7 in a position with duties involving direct care of clients,
8 patients, or residents if the individual has a verified and
9 substantiated finding of abuse, neglect, or financial
10 exploitation, as identified within the Adult Protective
11 Service Registry established under Section 7.5 of the Adult
12 Protective Services Act.

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

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

21 (225 ILCS 46/33)

22 Sec. 33. Fingerprint-based criminal history records check.

23 (a) A fingerprint-based criminal history records check is
24 not required for health care employees who have been
25 continuously employed by a health care employer since October

1 1, 2007, have met the requirements for criminal history
2 background checks prior to October 1, 2007, and have no
3 disqualifying convictions or requested and received a waiver
4 of those disqualifying convictions. These employees shall be
5 retained on the Health Care Worker Registry as long as they
6 remain active. Nothing in this subsection (a) shall be
7 construed to prohibit a health care employer from initiating a
8 criminal history records check for these employees. Should
9 these employees seek a new position with a different health
10 care employer, then a fingerprint-based criminal history
11 records check shall be required.

12 (b) On October 1, 2007 or as soon thereafter as is
13 reasonably practical, in the discretion of the Director of
14 Public Health, and thereafter, any student, applicant, or
15 employee who desires to be included on the Department of
16 Public Health's Health Care Worker Registry shall authorize
17 the Department of Public Health or its designee to request a
18 fingerprint-based criminal history records check to determine
19 if the individual has a conviction for a disqualifying
20 offense. This authorization shall allow the Department of
21 Public Health to request and receive information and
22 assistance from any State or governmental agency. Each
23 individual shall submit his or her fingerprints to the
24 Illinois State Police in an electronic format that complies
25 with the form and manner for requesting and furnishing
26 criminal history record information prescribed by the Illinois

1 State Police. The fingerprints submitted under this Section
2 shall be checked against the fingerprint records now and
3 hereafter filed in the Illinois State Police criminal history
4 record databases, and the Illinois State Police shall forward
5 the applicant's fingerprints to the Federal Bureau of
6 Investigation. The Illinois State Police shall request the
7 Federal Bureau of Investigation conduct a national criminal
8 history pertaining to the applicant. The Illinois State Police
9 shall charge a fee for conducting the criminal history records
10 check, which shall not exceed the actual cost of the records
11 check. The livescan vendor may act as the designee for
12 individuals, educational entities, or health care employers in
13 the collection of Illinois State Police fees and deposit those
14 fees into the State Police Services Fund. The Illinois State
15 Police shall provide information concerning any criminal
16 convictions, now or hereafter filed, against the individual.

17 (c) On October 1, 2007 or as soon thereafter as is
18 reasonably practical, in the discretion of the Director of
19 Public Health, and thereafter, an educational entity, other
20 than a secondary school, conducting a nurse aide training
21 program shall initiate a fingerprint-based criminal history
22 records check required by this Act prior to entry of an
23 individual into the training program.

24 (d) On October 1, 2007 or as soon thereafter as is
25 reasonably practical, in the discretion of the Director of
26 Public Health, and thereafter, a health care employer who

1 makes a conditional offer of employment to an applicant for a
2 position as an employee shall initiate a fingerprint-based
3 criminal history record check, requested by the Department of
4 Public Health, on the applicant, if such a background check
5 has not been previously conducted. Workforce intermediaries
6 and organizations providing pro bono legal services may
7 initiate a fingerprint-based criminal history record check if
8 a conditional offer of employment has not been made and a
9 background check has not been previously conducted for an
10 individual who has a disqualifying conviction and is receiving
11 services from a workforce intermediary or an organization
12 providing pro bono legal services.

13 (e) When initiating a background check requested by the
14 Department of Public Health, an educational entity, health
15 care employer, workforce intermediary, or organization that
16 provides pro bono legal services shall electronically submit
17 to the Department of Public Health the student's, applicant's,
18 or employee's social security number, demographics,
19 disclosure, and authorization information in a format
20 prescribed by the Department of Public Health within 2 working
21 days after the authorization is secured. The student,
22 applicant, or employee shall have his or her fingerprints
23 collected electronically and transmitted to the Illinois State
24 Police within 10 working days. The educational entity, health
25 care employer, workforce intermediary, or organization that
26 provides pro bono legal services shall transmit all necessary

1 information and fees to the livescan vendor and Illinois State
2 Police within 10 working days after receipt of the
3 authorization. This information and the results of the
4 criminal history record checks shall be maintained by the
5 Department of Public Health's Health Care Worker Registry.

6 (f) A direct care employer may initiate a
7 fingerprint-based background check required by this Act for
8 any of its employees, but may not use this process to initiate
9 background checks for residents. The results of any
10 fingerprint-based background check that is initiated with the
11 Department as the requester shall be entered in the Health
12 Care Worker Registry.

13 (g) As long as the employee or trainee has had a
14 fingerprint-based criminal history record check required by
15 this Act and stays active on the Health Care Worker Registry,
16 no further criminal history record checks are required, as the
17 Illinois State Police shall notify the Department of Public
18 Health of any additional convictions associated with the
19 fingerprints previously submitted. Health care employers shall
20 check the Health Care Worker Registry before hiring an
21 employee to determine that the individual has had a
22 fingerprint-based record check required by this Act and has no
23 disqualifying convictions or has been granted a waiver
24 pursuant to Section 40 of this Act. If the individual has not
25 had such a background check or is not active on the Health Care
26 Worker Registry, then the health care employer shall initiate

1 a fingerprint-based record check requested by the Department
2 of Public Health. If an individual is inactive on the Health
3 Care Worker Registry, that individual is prohibited from being
4 hired to work as a certified nursing assistant if, since the
5 individual's most recent completion of a competency test,
6 there has been a period of 24 consecutive months during which
7 the individual has not provided nursing or nursing-related
8 services for pay. If the individual can provide proof of
9 having retained his or her certification by not having a
10 24-consecutive-month break in service for pay, he or she may
11 be hired as a certified nursing assistant and that employment
12 information shall be entered into the Health Care Worker
13 Registry.

14 (h) On October 1, 2007 or as soon thereafter as is
15 reasonably practical, in the discretion of the Director of
16 Public Health, and thereafter, if the Illinois State Police
17 notifies the Department of Public Health that an employee has
18 a new conviction of a disqualifying offense, based upon the
19 fingerprints that were previously submitted, then (i) the
20 Health Care Worker Registry shall notify the employee's last
21 known employer of the offense, (ii) a record of the employee's
22 disqualifying offense shall be entered on the Health Care
23 Worker Registry, and (iii) the individual shall no longer be
24 eligible to work as an employee unless he or she obtains a
25 waiver pursuant to Section 40 of this Act.

26 (i) On October 1, 2007, or as soon thereafter, in the

1 discretion of the Director of Public Health, as is reasonably
2 practical, and thereafter, each direct care employer or its
3 designee shall provide an employment verification for each
4 employee no less than annually. The direct care employer or
5 its designee shall log into the Health Care Worker Registry
6 through a secure login. The health care employer or its
7 designee shall indicate employment and termination dates
8 within 30 days after hiring or terminating an employee, as
9 well as the employment category and type. Failure to comply
10 with this subsection (i) constitutes a licensing violation. A
11 fine of up to \$500 may be imposed for failure to maintain these
12 records. This information shall be used by the Department of
13 Public Health to notify the last known employer of any
14 disqualifying offenses that are reported by the Illinois State
15 Police.

16 (j) In the event that an applicant or employee has a waiver
17 for one or more disqualifying offenses pursuant to Section 40
18 of this Act and he or she is otherwise eligible to work, the
19 Health Care Worker Registry shall indicate that the applicant
20 or employee is eligible to work and that additional
21 information is available on the Health Care Worker Registry.
22 The Health Care Worker Registry may indicate that the
23 applicant or employee has received a waiver.

24 (k) The student, applicant, or employee shall be notified
25 of each of the following whenever a fingerprint-based criminal
26 history records check is required:

1 (1) That the educational entity, health care employer,
2 or long-term care facility shall initiate a
3 fingerprint-based criminal history record check required
4 by this Act of the student, applicant, or employee.

5 (2) That the student, applicant, or employee has a
6 right to obtain a copy of the criminal records report that
7 indicates a conviction for a disqualifying offense and
8 challenge the accuracy and completeness of the report
9 through an established Illinois State Police procedure of
10 Access and Review.

11 (3) That the applicant, if hired conditionally, may be
12 terminated if the criminal records report indicates that
13 the applicant has a record of a conviction of any of the
14 criminal offenses enumerated in Section 25, unless the
15 applicant obtains a waiver pursuant to Section 40 of this
16 Act.

17 (4) That the applicant, if not hired conditionally,
18 shall not be hired if the criminal records report
19 indicates that the applicant has a record of a conviction
20 of any of the criminal offenses enumerated in Section 25,
21 unless the applicant obtains a waiver pursuant to Section
22 40 of this Act.

23 (5) That the employee shall be terminated if the
24 criminal records report indicates that the employee has a
25 record of a conviction of any of the criminal offenses
26 enumerated in Section 25.

1 (6) If, after the employee has originally been
2 determined not to have disqualifying offenses, the
3 employer is notified that the employee has a new
4 conviction(s) of any of the criminal offenses enumerated
5 in Section 25, then the employee shall be terminated.

6 (1) A health care employer or long-term care facility may
7 conditionally employ an applicant for up to 3 months pending
8 the results of a fingerprint-based criminal history record
9 check requested by the Department of Public Health.

10 (m) The Department of Public Health or an entity
11 responsible for inspecting, licensing, certifying, or
12 registering the health care employer or long-term care
13 facility shall be immune from liability for notices given
14 based on the results of a fingerprint-based criminal history
15 record check.

16 (n) As used in this Section:

17 "Workforce intermediaries" means organizations that
18 function to provide job training and employment services.
19 Workforce intermediaries include institutions of higher
20 education, faith-based and community organizations, and
21 workforce investment boards.

22 "Organizations providing pro bono legal services" means
23 legal services performed without compensation or at a
24 significantly reduced cost to the recipient that provide
25 services designed to help individuals overcome statutory
26 barriers that would prevent them from entering positions in

1 the healthcare industry.

2 (Source: P.A. 101-176, eff. 7-31-19; 102-538, eff. 8-20-21.)