



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4580

by Rep. Camille Y. Lilly

#### SYNOPSIS AS INTRODUCED:

225 ILCS 46/25

Amends the Health Care Worker Background Check Act. Provides that the prohibition against a health care employer or long-term care facility hiring, employing, or retaining an individual in a position with duties involving direct care for clients, patients, or residents, or duties that involve or may involve contact with long-term care facility residents or access to the living quarters or the financial, medical, or personal records of residents, on account of the individual's conviction of committing or attempting to commit one or more of certain specified offenses shall be for a period of (i) 2 years following the date of conviction in the case of a conviction for a misdemeanor and (ii) 5 years following the date of conviction in the case of a conviction for a felony. Effective immediately.

LRB098 18949 ZMM 54097 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 Section 25 as follows:

6 (225 ILCS 46/25)

7 Sec. 25. Persons ineligible to be hired by health care  
8 employers and long-term care facilities.

9 (a) Subject to subsection (c), in ~~In~~ the discretion of the  
10 Director of Public Health, as soon after January 1, 1996,  
11 January 1, 1997, January 1, 2006, or October 1, 2007, as  
12 applicable, and as is reasonably practical, no health care  
13 employer shall knowingly hire, employ, or retain any individual  
14 in a position with duties involving direct care for clients,  
15 patients, or residents, and no long-term care facility shall  
16 knowingly hire, employ, or retain any individual in a position  
17 with duties that involve or may involve contact with residents  
18 or access to the living quarters or the financial, medical, or  
19 personal records of residents, who has been convicted of  
20 committing or attempting to commit one or more of the following  
21 offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,  
22 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2,  
23 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40,

1 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1,  
2 11-20.1B, 11-20.3, 12-1, 12-2, 12-3.05, 12-3.1, 12-3.2,  
3 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6,  
4 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
5 12-19, 12-21, 12-21.6, 12-32, 12-33, 12C-5, 16-1, 16-1.3,  
6 16-25, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1,  
7 19-3, 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2,  
8 or subdivision (a)(4) of Section 11-14.4, or in subsection (a)  
9 of Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of  
10 the Criminal Code of 1961 or the Criminal Code of 2012; those  
11 provided in Section 4 of the Wrongs to Children Act; those  
12 provided in Section 53 of the Criminal Jurisprudence Act; those  
13 defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control  
14 Act; those defined in the Methamphetamine Control and Community  
15 Protection Act; or those defined in Sections 401, 401.1, 404,  
16 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances  
17 Act, unless the applicant or employee obtains a waiver pursuant  
18 to Section 40.

19 (a-1) Subject to subsection (c), in ~~in~~ the discretion of  
20 the Director of Public Health, as soon after January 1, 2004 or  
21 October 1, 2007, as applicable, and as is reasonably practical,  
22 no health care employer shall knowingly hire any individual in  
23 a position with duties involving direct care for clients,  
24 patients, or residents, and no long-term care facility shall  
25 knowingly hire any individual in a position with duties that  
26 involve or may involve contact with residents or access to the

1 living quarters or the financial, medical, or personal records  
2 of residents, who has (i) been convicted of committing or  
3 attempting to commit one or more of the offenses defined in  
4 Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,  
5 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,  
6 24-3.2, or 24-3.3, or subsection (b) of Section 17-32,  
7 subsection (b) of Section 18-1, or subsection (b) of Section  
8 20-1, of the Criminal Code of 1961 or the Criminal Code of  
9 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card  
10 and Debit Card Act; or Section 11-9.1A of the Criminal Code of  
11 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs  
12 to Children Act; or (ii) violated Section 50-50 of the Nurse  
13 Practice Act, unless the applicant or employee obtains a waiver  
14 pursuant to Section 40 of this Act.

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

24 (b) Subject to subsection (c), a ~~A~~ health care employer  
25 shall not hire, employ, or retain any individual in a position  
26 with duties involving direct care of clients, patients, or

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

15 (c) The prohibition against hiring, employing, or  
16 retaining an individual set forth in subsection (a), (a-1), or  
17 (b) on account of the individual's conviction of committing or  
18 attempting to commit one or more of the offenses specified in  
19 those subsections shall be for a period of (i) 2 years  
20 following the date of conviction in the case of a conviction  
21 for a misdemeanor and (ii) 5 years following the date of  
22 conviction in the case of a conviction for a felony.

23 (Source: P.A. 96-710, eff. 1-1-10; 96-1551, Article 1, Section  
24 930, eff. 7-1-11; 96-1551, Article 2, Section 995, eff. 7-1-11;  
25 96-1551, Article 10, Section 10-40, eff. 7-1-11; 97-597, eff.  
26 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,

1     eff. 1-25-13.)

2             Section 99. Effective date. This Act takes effect upon  
3     becoming law.