



Rep. Margaret Croke

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10400HB1076ham004

LRB104 05517 BAB 34381 a

1 AMENDMENT TO HOUSE BILL 1076

2 AMENDMENT NO. _____. Amend House Bill 1076, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Health Care Worker Background Check Act is
6 amended by changing Sections 25, 28, and 40 as follows:

7 (225 ILCS 46/25)

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

10 (a) A health care employer or long-term care facility may
11 hire, employ, or retain any individual in a position involving
12 direct care for clients, patients, or residents or access to
13 the living quarters or the financial, medical, or personal
14 records of clients, patients, or residents who has been
15 convicted of committing or attempting to commit one or more of
16 the following offenses under the laws of this State, or of an

1 offense that is substantially equivalent to the following
2 offenses under the laws of any other state or of the laws of
3 the United States, as verified by court records, records from
4 a state agency, or a Federal Bureau of Investigation criminal
5 history records check, only with a waiver described in Section
6 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,
7 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,
8 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,
9 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,
10 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,
11 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
12 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
13 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,
14 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,
15 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,
16 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,
17 24-3.8, or 33A-2, or subdivision (a) (4) of Section 11-14.4, or
18 in subsection (a) of Section 12-3 or subsection (a) or (b) of
19 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
20 Code of 2012; those provided in Section 4 of the Wrongs to
21 Children Act; those provided in Section 53 of the Criminal
22 Jurisprudence Act; those defined in subsection (c), (d), (e),
23 (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the
24 Cannabis Control Act; those defined in the Methamphetamine
25 Control and Community Protection Act; those defined in
26 Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the

1 Illinois Controlled Substances Act; or subsection (a) of
2 Section 3.01, Section 3.02, or Section 3.03 of the Humane Care
3 for Animals Act. If an individual's convictions have been
4 expunged or sealed by court order, no waiver is required.

5 (a-1) A health care employer or long-term care facility
6 may hire, employ, or retain any individual in a position
7 involving direct care for clients, patients, or residents or
8 access to the living quarters or the financial, medical, or
9 personal records of clients, patients, or residents who has
10 been convicted of committing or attempting to commit one or
11 more of the following offenses under the laws of this State, or
12 of an offense that is substantially equivalent to the
13 following offenses under the laws of any other state or of the
14 laws of the United States, as verified by court records,
15 records from a state agency, or a Federal Bureau of
16 Investigation criminal history records check, only with a
17 waiver described in Section 40: those offenses defined in
18 Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,
19 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,
20 24-3.2, or 24-3.3, or subsection (b) of Section 17-32,
21 subsection (b) of Section 18-1, or subsection (b) of Section
22 20-1, of the Criminal Code of 1961 or the Criminal Code of
23 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card
24 and Debit Card Act; or Section 11-9.1A of the Criminal Code of
25 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs
26 to Children Act; or (ii) violated Section 50-50 of the Nurse

1 Practice Act. If an individual's convictions have been
2 expunged or sealed by court order, no waiver is required.

3 A health care employer is not required to retain an
4 individual in a position with duties involving direct care for
5 clients, patients, or residents, and no long-term care
6 facility is required to retain an individual in a position
7 with duties that involve or may involve contact with residents
8 or access to the living quarters or the financial, medical, or
9 personal records of residents, who has been convicted of
10 committing or attempting to commit one or more of the offenses
11 enumerated in this subsection.

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

1 40 of this Act. This shall not be construed to mean that a
2 health care employer has an obligation to conduct a criminal
3 history records check in other states in which an employee has
4 resided. If an individual's convictions have been expunged or
5 sealed by court order, no waiver is required.

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

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

20 (e) 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 Human Services denoted on the Health Care Worker Registry of
25 physical or sexual abuse, financial exploitation, egregious
26 neglect, or material obstruction of an investigation.

1 (Source: P.A. 103-76, eff. 6-9-23; 103-428, eff. 1-1-24;
2 103-605, eff. 7-1-24.)

3 (225 ILCS 46/28)

4 Sec. 28. Designation on Registry for offense.

5 (a) The Department, after notice to the employee, or
6 former employee, may denote on the Health Care Worker Registry
7 that the Department has found any of the following:

8 (1) The employee, or former employee, has abused a
9 resident.

10 (2) The employee, or former employee, has neglected a
11 resident.

12 (3) The employee, or former employee, has
13 misappropriated resident property.

14 (4) The employee, or former employee, has been
15 convicted of (i) a felony; (ii) a misdemeanor, an
16 essential element of which is dishonesty; or (iii) any
17 crime that is directly related to the duties of an
18 employee, a nursing assistant, habilitation aide, or child
19 care aide. This paragraph does not include any convictions
20 that have been sealed by court order.

21 (b) Notice under this Section shall include a clear and
22 concise statement of the grounds denoting abuse, neglect,
23 theft, or other applicable finding, and notice of the
24 opportunity for a hearing to contest the designation.

25 (c) The Department shall document criminal history records

1 check results pursuant to the requirements of this Act.

2 (d) After the designation of neglect on the Health Care
3 Worker Registry, made pursuant to this Section, an employee,
4 or former employee, may petition the Department for removal of
5 a designation of neglect on the Health Care Worker Registry,
6 after durations set forth within the Department's notice made
7 pursuant to subsections (a) and (b) of this Section. Upon
8 receipt of a petition, the Department may remove the
9 designation for a finding of neglect after no less than one
10 year, or the designation of applicable findings set forth by
11 rule of an employee, or former employee, for minimum durations
12 set forth by the Department, on the Health Care Worker
13 Registry unless the Department determines that removal of
14 designation is not in the public interest. The Department
15 shall set forth by rule the discretionary factors by which
16 designations of employees or former employees may be removed.
17 (Source: P.A. 100-432, eff. 8-25-17.)

18 (225 ILCS 46/40)

19 Sec. 40. Waiver.

20 (a) Any student, applicant, enrollee in a training
21 program, individual receiving services from a workforce
22 intermediary or organization providing pro bono legal
23 services, or employee listed on the Health Care Worker
24 Registry may request a waiver of the prohibition against
25 employment by:

1 (1) completing a waiver application on a form
2 prescribed by the Department of Public Health;

3 (2) providing a written explanation of each conviction
4 that has not been sealed by court order to include (i) what
5 happened, (ii) how many years have passed since the
6 offense, (iii) the individuals involved, (iv) the age of
7 the applicant at the time of the offense, and (v) any other
8 circumstances surrounding the offense; and

9 (3) providing official documentation showing that all
10 fines have been paid, if applicable and except for in the
11 instance of payment of court-imposed fines or restitution
12 in which the applicant is adhering to a payment schedule,
13 and the date probation or parole was satisfactorily
14 completed, if applicable.

15 (b) The applicant may, but is not required to, submit
16 employment and character references and any other evidence
17 demonstrating the ability of the applicant or employee to
18 perform the employment responsibilities competently and
19 evidence that the applicant or employee does not pose a threat
20 to the health or safety of residents, patients, or clients.

21 (c) The Department of Public Health may, at the discretion
22 of the Director of Public Health, grant a waiver to an
23 applicant, student, or employee listed on the Health Care
24 Worker Registry. The Department of Public Health shall act
25 upon the waiver request within 30 days of receipt of all
26 necessary information, as defined by rule. The Department of

1 Public Health shall send an applicant, student, or employee
2 written notification of its decision whether to grant a
3 waiver, including listing the specific disqualifying offenses
4 for which the waiver is being granted or denied. The
5 Department shall issue additional copies of this written
6 notification upon the applicant's, student's, or employee's
7 request.

8 (d) An individual shall not be employed from the time that
9 the employer receives a notification from the Department of
10 Public Health based upon the results of a fingerprint-based
11 criminal history records check containing disqualifying
12 conditions until the time that the individual receives a
13 waiver.

14 (e) The entity responsible for inspecting, licensing,
15 certifying, or registering the health care employer and the
16 Department of Public Health shall be immune from liability for
17 any waivers granted under this Section.

18 (f) A health care employer is not obligated to employ or
19 offer permanent employment to an applicant, or to retain an
20 employee who is granted a waiver under this Section.

21 (Source: P.A. 100-432, eff. 8-25-17; 101-176, eff. 7-31-19.)

22 Section 10. The Job Opportunities for Qualified Applicants
23 Act is amended by changing Section 15 as follows:

24 (820 ILCS 75/15)

1 Sec. 15. Employer pre-screening.

2 (a) An employer or employment agency may not inquire about
3 or into, consider, or require disclosure of the criminal
4 record or criminal history of an applicant until the applicant
5 has been determined qualified for the position and notified
6 that the applicant has been selected for an interview by the
7 employer or employment agency or, if there is not an
8 interview, until after a conditional offer of employment is
9 made to the applicant by the employer or employment agency.
10 This Section prohibits prospective employers of health care
11 workers from inquiring into an applicant's criminal history,
12 except to the extent allowed by the Health Care Worker
13 Background Check Act.

14 (b) The requirements set forth in subsection (a) of this
15 Section do not apply for positions where:

16 (1) employers are required to exclude applicants with
17 certain criminal convictions from employment due to
18 federal or State law;

19 (2) a standard fidelity bond or an equivalent bond is
20 required and an applicant's conviction of one or more
21 specified criminal offenses would disqualify the applicant
22 from obtaining such a bond, in which case an employer may
23 include a question or otherwise inquire whether the
24 applicant has ever been convicted of any of those
25 offenses; or

26 (3) employers employ individuals licensed under the

1 Emergency Medical Services (EMS) Systems Act.

2 (c) This Section does not prohibit an employer from
3 notifying applicants in writing of the specific offenses that
4 will disqualify an applicant from employment in a particular
5 position due to federal or State law or the employer's policy.
6 (Source: P.A. 98-774, eff. 1-1-15.)".