**Section 390.635 Identified Offenders**

a) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending or while the results of a request for a waiver of a fingerprint-based check are pending, and while the Identified Offender Report and Recommendation is pending.

b) *If the results of a resident's criminal history background check reveal that the resident is an identified offender as defined in Section 1-114.01* of the Act*, the facility shall do the following*:

1) *Immediately notify the Department of State Police, in the form and manner required by the Department of State Police, in collaboration with the Department of Public Health, that the resident is an identified offender*.

2) *Within 72 hours, arrange for a fingerprint-based criminal history record inquiry to be requested on the identified offender resident. The inquiry shall be based on the subject's name, sex, race, date of birth, fingerprint images, and other identifiers required by the Department of State Police. The inquiry shall be processed through the files of the Department of State Police and the Federal Bureau of Investigation to locate any criminal history record information that may exist regarding the subject. The Federal Bureau of Investigation shall furnish to the Department of State Police, pursuant to an inquiry under this* subsection (b)(2), *any criminal history record information contained in its files*.

c) *The facility shall comply with all applicable provisions contained in the Uniform Conviction Information Act*.

d) *All name-based and fingerprint-based criminal history record inquiries shall be submitted to the Department of State Police electronically in the form and manner prescribed by the Department of State Police. The Department of State Police may charge the facility a fee for processing name-based and fingerprint-based criminal history record inquiries.* (Section 2-201.5(c) of the Act)

e) If identified offenders, as defined in Section 1-114.01 of the Act and Section 390.330, are residents of a facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release, or probation for a felony offense who are residents of the facility. *If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, aftercare release, or mandatory supervised release*. (Section 2-110(a-5) of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 390.750.

3) *If identified offenders are residents of the licensed facility, the licensed facility shall notify every resident or resident's guardian in writing that offenders are residents of the licensed facility. The licensed facility shall also provide notice to its employees and to visitors to the facility that identified offenders are residents.* (Section 2-216 of the Act)

A) The notice shall be prominently posted within every licensed facility.

B) The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website, www.isp.state.il.us, and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website, www.illinois.gov/idoc.

4) If the identified offender is on probation, parole, or mandatory supervised release, the facility shall contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record also shall include the resident's criminal history record.

f) Facilities shall maintain written documentation of compliance with Section 390.625.

g) Facilities shall annually complete all of the steps required in subsection (e) for identified offenders.

h) For current residents who are identified offenders, the facility shall at least annually review the security measures listed in the Identified Offender Report and Recommendation provided by the Department of the State Police, adopting recommended security measures identified in subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, shall specifically address the resident's needs in an individualized plan of care.

1) *The care planning of identified offenders shall include, but not be limited to, a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other facility residents.* (Section 3-202.3(5) of the Act).

2) *If the identified offender is a convicted* (see 730 ILCS 150/2) *or registered* (see 730 ILCS 150/3) *sex offender, or if the Identified Offender Report and Recommendation* prepared pursuant to Section 2-201.6 of the Act *reveals that the identified offender poses a significant risk of harm to others within the facility, then the offender shall be required to have his or her own room within the facility* subject to the rights of married residents under Section 2-108(e) of the Act. (Section 2-201.6(d) of the Act)

j) *The facility shall incorporate the Identified Offender Report and Recommendation into the identified offender's individual program plan*. (Section 2-201.6(g) of the Act)

k) The facility's reliance on the Identified Offender Report and Recommendation prepared pursuant to Section 2-201.6 of the Act shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to the identified offender or other facility residents.

l) The facility shall evaluate care plans at least quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and shall document such review. The facility shall modify the care plan if necessary in response to this evaluation. The facility remains responsible for continuously evaluating the identified offender and for making any changes in the care plan that are necessary to ensure the safety of residents.

m) Incident reports shall be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 390.700. The facility shall review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility shall identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents, facility staff, or facility visitors from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 3-402 of the Act and Section 390.3300.

n) The facility shall notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

o) The facility shall develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Former Section repealed at 31 Ill. Reg. 6145, effective April 3, 2007 and new Section adopted at 46 Ill. Reg. 8192, effective May 6, 2022)