



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3631

by Rep. Rita Mayfield

#### SYNOPSIS AS INTRODUCED:

225 ILCS 10/4.2

from Ch. 23, par. 2214.2

Amends the Child Care Act of 1969. Provides that, for applicants with access to confidential financial information or who submit documentation to support billing, the Department of Children and Family Services may, in its discretion, deny or refuse to renew a license to an applicant (rather than no applicant may receive a license from the Department or a child care facility licensed by the Department) who has been convicted of committing or attempting to commit any of the following felony offenses: financial institution fraud; identity theft; financial exploitation; computer tampering; aggravated computer tampering; computer fraud; deceptive practices; forgery; State benefits fraud; mail fraud and wire fraud; and theft. Effective immediately.

LRB101 10474 AMC 55580 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Child Care Act of 1969 is amended by  
5 changing Section 4.2 as follows:

6 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

7 Sec. 4.2. (a) No applicant may receive a license from the  
8 Department and no person may be employed by a licensed child  
9 care facility who refuses to authorize an investigation as  
10 required by Section 4.1.

11 (b) In addition to the other provisions of this Section, no  
12 applicant may receive a license from the Department and no  
13 person may be employed by a child care facility licensed by the  
14 Department who has been declared a sexually dangerous person  
15 under "An Act in relation to sexually dangerous persons, and  
16 providing for their commitment, detention and supervision",  
17 approved July 6, 1938, as amended, or convicted of committing  
18 or attempting to commit any of the following offenses  
19 stipulated under the Criminal Code of 1961 or the Criminal Code  
20 of 2012:

21 (1) murder;

22 (1.1) solicitation of murder;

23 (1.2) solicitation of murder for hire;

- 1 (1.3) intentional homicide of an unborn child;
- 2 (1.4) voluntary manslaughter of an unborn child;
- 3 (1.5) involuntary manslaughter;
- 4 (1.6) reckless homicide;
- 5 (1.7) concealment of a homicidal death;
- 6 (1.8) involuntary manslaughter of an unborn child;
- 7 (1.9) reckless homicide of an unborn child;
- 8 (1.10) drug-induced homicide;
- 9 (2) a sex offense under Article 11, except offenses
- 10 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
- 11 11-40, and 11-45;
- 12 (3) kidnapping;
- 13 (3.1) aggravated unlawful restraint;
- 14 (3.2) forcible detention;
- 15 (3.3) harboring a runaway;
- 16 (3.4) aiding and abetting child abduction;
- 17 (4) aggravated kidnapping;
- 18 (5) child abduction;
- 19 (6) aggravated battery of a child as described in
- 20 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 21 (7) criminal sexual assault;
- 22 (8) aggravated criminal sexual assault;
- 23 (8.1) predatory criminal sexual assault of a child;
- 24 (9) criminal sexual abuse;
- 25 (10) aggravated sexual abuse;
- 26 (11) heinous battery as described in Section 12-4.1 or

- 1 subdivision (a) (2) of Section 12-3.05;
- 2 (12) aggravated battery with a firearm as described in  
3 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or  
4 (e) (4) of Section 12-3.05;
- 5 (13) tampering with food, drugs, or cosmetics;
- 6 (14) drug induced infliction of great bodily harm as  
7 described in Section 12-4.7 or subdivision (g) (1) of  
8 Section 12-3.05;
- 9 (15) hate crime;
- 10 (16) stalking;
- 11 (17) aggravated stalking;
- 12 (18) threatening public officials;
- 13 (19) home invasion;
- 14 (20) vehicular invasion;
- 15 (21) criminal transmission of HIV;
- 16 (22) criminal abuse or neglect of an elderly person or  
17 person with a disability as described in Section 12-21 or  
18 subsection (e) of Section 12-4.4a;
- 19 (23) child abandonment;
- 20 (24) endangering the life or health of a child;
- 21 (25) ritual mutilation;
- 22 (26) ritualized abuse of a child;
- 23 (27) an offense in any other jurisdiction the elements  
24 of which are similar and bear a substantial relationship to  
25 any of the foregoing offenses.
- 26 (b-1) In addition to the other provisions of this Section,

1 beginning January 1, 2004, no new applicant and, on the date of  
2 licensure renewal, no current licensee may operate or receive a  
3 license from the Department to operate, no person may be  
4 employed by, and no adult person may reside in a child care  
5 facility licensed by the Department who has been convicted of  
6 committing or attempting to commit any of the following  
7 offenses or an offense in any other jurisdiction the elements  
8 of which are similar and bear a substantial relationship to any  
9 of the following offenses:

10 (I) BODILY HARM

- 11 (1) Felony aggravated assault.  
12 (2) Vehicular endangerment.  
13 (3) Felony domestic battery.  
14 (4) Aggravated battery.  
15 (5) Heinous battery.  
16 (6) Aggravated battery with a firearm.  
17 (7) Aggravated battery of an unborn child.  
18 (8) Aggravated battery of a senior citizen.  
19 (9) Intimidation.  
20 (10) Compelling organization membership of persons.  
21 (11) Abuse and criminal neglect of a long term care  
22 facility resident.  
23 (12) Felony violation of an order of protection.

1 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 2 (1) Felony unlawful use of weapons.
- 3 (2) Aggravated discharge of a firearm.
- 4 (3) Reckless discharge of a firearm.
- 5 (4) Unlawful use of metal piercing bullets.
- 6 (5) Unlawful sale or delivery of firearms on the
- 7 premises of any school.
- 8 (6) Disarming a police officer.
- 9 (7) Obstructing justice.
- 10 (8) Concealing or aiding a fugitive.
- 11 (9) Armed violence.
- 12 (10) Felony contributing to the criminal delinquency
- 13 of a juvenile.

14 (III) DRUG OFFENSES

- 15 (1) Possession of more than 30 grams of cannabis.
- 16 (2) Manufacture of more than 10 grams of cannabis.
- 17 (3) Cannabis trafficking.
- 18 (4) Delivery of cannabis on school grounds.
- 19 (5) Unauthorized production of more than 5 cannabis
- 20 sativa plants.
- 21 (6) Calculated criminal cannabis conspiracy.
- 22 (7) Unauthorized manufacture or delivery of controlled
- 23 substances.

- 1 (8) Controlled substance trafficking.
- 2 (9) Manufacture, distribution, or advertisement of  
3 look-alike substances.
- 4 (10) Calculated criminal drug conspiracy.
- 5 (11) Street gang criminal drug conspiracy.
- 6 (12) Permitting unlawful use of a building.
- 7 (13) Delivery of controlled, counterfeit, or  
8 look-alike substances to persons under age 18, or at truck  
9 stops, rest stops, or safety rest areas, or on school  
10 property.
- 11 (14) Using, engaging, or employing persons under 18 to  
12 deliver controlled, counterfeit, or look-alike substances.
- 13 (15) Delivery of controlled substances.
- 14 (16) Sale or delivery of drug paraphernalia.
- 15 (17) Felony possession, sale, or exchange of  
16 instruments adapted for use of a controlled substance,  
17 methamphetamine, or cannabis by subcutaneous injection.
- 18 (18) Felony possession of a controlled substance.
- 19 (19) Any violation of the Methamphetamine Control and  
20 Community Protection Act.
- 21 (b-1.5) In addition to any other provision of this Section,  
22 for applicants with access to confidential financial  
23 information or who submit documentation to support billing, the  
24 Department may, in its discretion, deny or refuse to renew a  
25 license to an applicant ~~no applicant whose initial application~~  
26 ~~was considered after the effective date of this amendatory Act~~

1 ~~of the 97th General Assembly may receive a license from the~~  
2 ~~Department or a child care facility licensed by the Department~~  
3 who has been convicted of committing or attempting to commit  
4 any of the following felony offenses:

5 (1) financial institution fraud under Section 17-10.6  
6 of the Criminal Code of 1961 or the Criminal Code of 2012;

7 (2) identity theft under Section 16-30 of the Criminal  
8 Code of 1961 or the Criminal Code of 2012;

9 (3) financial exploitation of an elderly person or a  
10 person with a disability under Section 17-56 of the  
11 Criminal Code of 1961 or the Criminal Code of 2012;

12 (4) computer tampering under Section 17-51 of the  
13 Criminal Code of 1961 or the Criminal Code of 2012;

14 (5) aggravated computer tampering under Section 17-52  
15 of the Criminal Code of 1961 or the Criminal Code of 2012;

16 (6) computer fraud under Section 17-50 of the Criminal  
17 Code of 1961 or the Criminal Code of 2012;

18 (7) deceptive practices under Section 17-1 of the  
19 Criminal Code of 1961 or the Criminal Code of 2012;

20 (8) forgery under Section 17-3 of the Criminal Code of  
21 1961 or the Criminal Code of 2012;

22 (9) State benefits fraud under Section 17-6 of the  
23 Criminal Code of 1961 or the Criminal Code of 2012;

24 (10) mail fraud and wire fraud under Section 17-24 of  
25 the Criminal Code of 1961 or the Criminal Code of 2012;

26 (11) theft under paragraphs (1.1) through (11) of



1 subsection (b) of Section 16-1 of the Criminal Code of 1961  
2 or the Criminal Code of 2012.

3 (b-2) Notwithstanding subsection (b-1), the Department may  
4 make an exception and, for child care facilities other than  
5 foster family homes, issue a new child care facility license to  
6 or renew the existing child care facility license of an  
7 applicant, a person employed by a child care facility, or an  
8 applicant who has an adult residing in a home child care  
9 facility who was convicted of an offense described in  
10 subsection (b-1), provided that all of the following  
11 requirements are met:

12 (1) The relevant criminal offense occurred more than 5  
13 years prior to the date of application or renewal, except  
14 for drug offenses. The relevant drug offense must have  
15 occurred more than 10 years prior to the date of  
16 application or renewal, unless the applicant passed a drug  
17 test, arranged and paid for by the child care facility, no  
18 less than 5 years after the offense.

19 (2) The Department must conduct a background check and  
20 assess all convictions and recommendations of the child  
21 care facility to determine if hiring or licensing the  
22 applicant is in accordance with Department administrative  
23 rules and procedures.

24 (3) The applicant meets all other requirements and  
25 qualifications to be licensed as the pertinent type of  
26 child care facility under this Act and the Department's

1 administrative rules.

2 (c) In addition to the other provisions of this Section, no  
3 applicant may receive a license from the Department to operate  
4 a foster family home, and no adult person may reside in a  
5 foster family home licensed by the Department, who has been  
6 convicted of committing or attempting to commit any of the  
7 following offenses stipulated under the Criminal Code of 1961,  
8 the Criminal Code of 2012, the Cannabis Control Act, the  
9 Methamphetamine Control and Community Protection Act, and the  
10 Illinois Controlled Substances Act:

11 (I) OFFENSES DIRECTED AGAINST THE PERSON

12 (A) KIDNAPPING AND RELATED OFFENSES

13 (1) Unlawful restraint.

14 (B) BODILY HARM

15 (2) Felony aggravated assault.

16 (3) Vehicular endangerment.

17 (4) Felony domestic battery.

18 (5) Aggravated battery.

19 (6) Heinous battery.

20 (7) Aggravated battery with a firearm.

21 (8) Aggravated battery of an unborn child.

22 (9) Aggravated battery of a senior citizen.

23 (10) Intimidation.

- 1 (11) Compelling organization membership of persons.  
2 (12) Abuse and criminal neglect of a long term care  
3 facility resident.  
4 (13) Felony violation of an order of protection.

5 (II) OFFENSES DIRECTED AGAINST PROPERTY

- 6 (14) Felony theft.  
7 (15) Robbery.  
8 (16) Armed robbery.  
9 (17) Aggravated robbery.  
10 (18) Vehicular hijacking.  
11 (19) Aggravated vehicular hijacking.  
12 (20) Burglary.  
13 (21) Possession of burglary tools.  
14 (22) Residential burglary.  
15 (23) Criminal fortification of a residence or  
16 building.  
17 (24) Arson.  
18 (25) Aggravated arson.  
19 (26) Possession of explosive or explosive incendiary  
20 devices.

21 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 22 (27) Felony unlawful use of weapons.

- 1 (28) Aggravated discharge of a firearm.  
2 (29) Reckless discharge of a firearm.  
3 (30) Unlawful use of metal piercing bullets.  
4 (31) Unlawful sale or delivery of firearms on the  
5 premises of any school.  
6 (32) Disarming a police officer.  
7 (33) Obstructing justice.  
8 (34) Concealing or aiding a fugitive.  
9 (35) Armed violence.  
10 (36) Felony contributing to the criminal delinquency  
11 of a juvenile.

12 (IV) DRUG OFFENSES

- 13 (37) Possession of more than 30 grams of cannabis.  
14 (38) Manufacture of more than 10 grams of cannabis.  
15 (39) Cannabis trafficking.  
16 (40) Delivery of cannabis on school grounds.  
17 (41) Unauthorized production of more than 5 cannabis  
18 sativa plants.  
19 (42) Calculated criminal cannabis conspiracy.  
20 (43) Unauthorized manufacture or delivery of  
21 controlled substances.  
22 (44) Controlled substance trafficking.  
23 (45) Manufacture, distribution, or advertisement of  
24 look-alike substances.

1 (46) Calculated criminal drug conspiracy.

2 (46.5) Streetgang criminal drug conspiracy.

3 (47) Permitting unlawful use of a building.

4 (48) Delivery of controlled, counterfeit, or  
5 look-alike substances to persons under age 18, or at truck  
6 stops, rest stops, or safety rest areas, or on school  
7 property.

8 (49) Using, engaging, or employing persons under 18 to  
9 deliver controlled, counterfeit, or look-alike substances.

10 (50) Delivery of controlled substances.

11 (51) Sale or delivery of drug paraphernalia.

12 (52) Felony possession, sale, or exchange of  
13 instruments adapted for use of a controlled substance,  
14 methamphetamine, or cannabis by subcutaneous injection.

15 (53) Any violation of the Methamphetamine Control and  
16 Community Protection Act.

17 (d) Notwithstanding subsection (c), the Department may  
18 make an exception and issue a new foster family home license or  
19 may renew an existing foster family home license of an  
20 applicant who was convicted of an offense described in  
21 subsection (c), provided all of the following requirements are  
22 met:

23 (1) The relevant criminal offense or offenses occurred  
24 more than 10 years prior to the date of application or  
25 renewal.

26 (2) The applicant had previously disclosed the

1 conviction or convictions to the Department for purposes of  
2 a background check.

3 (3) After the disclosure, the Department either placed  
4 a child in the home or the foster family home license was  
5 issued.

6 (4) During the background check, the Department had  
7 assessed and waived the conviction in compliance with the  
8 existing statutes and rules in effect at the time of the  
9 hire or licensure.

10 (5) The applicant meets all other requirements and  
11 qualifications to be licensed as a foster family home under  
12 this Act and the Department's administrative rules.

13 (6) The applicant has a history of providing a safe,  
14 stable home environment and appears able to continue to  
15 provide a safe, stable home environment.

16 (e) In evaluating the exception pursuant to subsections  
17 (b-2) and (d), the Department must carefully review any  
18 relevant documents to determine whether the applicant, despite  
19 the disqualifying convictions, poses a substantial risk to  
20 State resources or clients. In making such a determination, the  
21 following guidelines shall be used:

22 (1) the age of the applicant when the offense was  
23 committed;

24 (2) the circumstances surrounding the offense;

25 (3) the length of time since the conviction;

26 (4) the specific duties and responsibilities

1 necessarily related to the license being applied for and  
2 the bearing, if any, that the applicant's conviction  
3 history may have on his or her fitness to perform these  
4 duties and responsibilities;

5 (5) the applicant's employment references;

6 (6) the applicant's character references and any  
7 certificates of achievement;

8 (7) an academic transcript showing educational  
9 attainment since the disqualifying conviction;

10 (8) a Certificate of Relief from Disabilities or  
11 Certificate of Good Conduct; and

12 (9) anything else that speaks to the applicant's  
13 character.

14 (Source: P.A. 99-143, eff. 7-27-15.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.