



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1845

Introduced 2/15/2019, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

See Index

Amends the Health Care Violence Prevention Act. Removes the term "committed person" and replaces it with "custodial detainee" throughout the Act. Provides that "workplace violence" does not include acts committed by individuals presenting for assessment, evaluation, or treatment for mental health or behavioral health conditions at a retail health care facility, a hospital, or a veterans' home. In provisions prohibiting a health care provider from discouraging a health care worker from exercising his or her right to contact law enforcement or file a report with law enforcement because of workplace violence, provides that such discouragement does not include training programs intended to instruct health care providers on proper practices and procedures applicable to the assessment, evaluation, or treatment of those with mental health or behavioral health conditions. Provides that health care providers that employ a health care worker shall display a notice stating that physical battery (rather than physical assault) will be reported to law enforcement. Specifies actions that are not included in the definition of "Type 2 violence". Provides that if a custodial detainee receives medical care and treatment at a place other than an institution or facility of the Department Corrections or the Department of Juvenile Justice, then the institution or facility shall ensure that the custodial detainee is accompanied by personnel authorized by the commander or chief operating officer of the institution or facility to transport and retain custody of custodial detainees. Effective January 1, 2020.

LRB101 07677 CPF 52725 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 Health Care Violence Prevention Act is
5 amended by changing Sections 5, 15, 20, 30, and 35 as follows:

6 (210 ILCS 160/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Custodial detainee" ~~"Committed person"~~ means a person who
9 is in the custody of or under the control of a custodial
10 agency, including, but not limited to, a person who is
11 incarcerated, under arrest, detained, or otherwise under the
12 physical control of a custodial agency.

13 "Custodial agency" means the Illinois Department of
14 Corrections, the Illinois State Police, the sheriff of a
15 county, a county jail, a correctional institution, or any other
16 State agency, municipality, or unit of local government that
17 employs personnel designated as police, peace officers,
18 wardens, corrections officers, or guards or that employs
19 personnel vested by law with the power to place or maintain a
20 person in custody.

21 "Health care provider" means a retail health care facility,
22 a hospital subject to the Hospital Licensing Act or the
23 University of Illinois Hospital Act, or a veterans home as

1 defined in the Department of Veterans' Affairs Act.

2 "Health care worker" means nursing assistants and other
3 support personnel, any individual licensed under the laws of
4 this State to provide health services, including but not
5 limited to: dentists licensed under the Illinois Dental
6 Practice Act; dental hygienists licensed under the Illinois
7 Dental Practice Act; nurses and advanced practice registered
8 nurses licensed under the Nurse Practice Act; occupational
9 therapists licensed under the Illinois Occupational Therapy
10 Practice Act; optometrists licensed under the Illinois
11 Optometric Practice Act of 1987; pharmacists licensed under the
12 Pharmacy Practice Act; physical therapists licensed under the
13 Illinois Physical Therapy Act; physicians licensed under the
14 Medical Practice Act of 1987; physician assistants licensed
15 under the Physician Assistant Practice Act of 1987; podiatric
16 physicians licensed under the Podiatric Medical Practice Act of
17 1987; clinical psychologists licensed under the Clinical
18 Psychologist Licensing Act; clinical social workers licensed
19 under the Clinical Social Work and Social Work Practice Act;
20 speech-language pathologists and audiologists licensed under
21 the Illinois Speech-Language Pathology and Audiology Practice
22 Act; or hearing instrument dispensers licensed under the
23 Hearing Instrument Consumer Protection Act, or any of their
24 successor Acts.

25 "Nurse" means a person who is licensed to practice nursing
26 under the Nurse Practice Act.

1 "Retail health care facility" means an institution, place,
2 or building, or any portion thereof, that:

3 (1) is devoted to the maintenance and operation of a
4 facility for the performance of health care services and is
5 located within a retail store at a specific location;

6 (2) does not provide surgical services or any form of
7 general anesthesia;

8 (3) does not provide beds or other accommodations for
9 either the long-term or overnight stay of patients; and

10 (4) discharges individual patients in an ambulatory
11 condition without danger to the continued well-being of the
12 patients and transfers non-ambulatory patients to
13 hospitals.

14 "Retail health care facility" does not include hospitals,
15 long-term care facilities, ambulatory treatment centers, blood
16 banks, clinical laboratories, offices of physicians, advanced
17 practice registered nurses, podiatrists, and physician
18 assistants, and pharmacies that provide limited health care
19 services.

20 "Workplace violence" does not include acts committed by
21 customers, clients, patients, students, inmates, visitors, or
22 other individuals presenting for assessment, evaluation, or
23 treatment for mental health or behavioral health conditions at
24 a retail health care facility, a hospital subject to the
25 Hospital Licensing Act or the University of Illinois Hospital
26 Act, or a veterans home as defined in the Department of

1 Veterans' Affairs Act.

2 (Source: P.A. 100-1051, eff. 1-1-19.)

3 (210 ILCS 160/15)

4 Sec. 15. Workplace safety.

5 (a) A health care worker who contacts law enforcement or
6 files a report with law enforcement against a patient or
7 individual because of workplace violence shall provide notice
8 to management of the health care provider by which he or she is
9 employed within 3 days after contacting law enforcement or
10 filing the report.

11 (b) No management of a health care provider may discourage
12 a health care worker from exercising his or her right to
13 contact law enforcement or file a report with law enforcement
14 because of workplace violence. Such discouragement does not
15 include training programs intended to instruct health care
16 providers on proper practices and procedures applicable to the
17 assessment, evaluation, or treatment of those with mental
18 health or behavioral health conditions.

19 (c) A health care provider that employs a health care
20 worker shall display a notice stating that verbal aggression
21 will not be tolerated and physical battery ~~assault~~ will be
22 reported to law enforcement.

23 (d) The health care provider shall offer immediate
24 post-incident services for a health care worker directly
25 involved in a workplace violence incident caused by patients or

1 their visitors, including acute treatment and access to
2 psychological evaluation.

3 (Source: P.A. 100-1051, eff. 1-1-19.)

4 (210 ILCS 160/20)

5 Sec. 20. Workplace violence prevention program.

6 (a) A health care provider shall create a workplace
7 violence prevention program that complies with the
8 Occupational Safety and Health Administration guidelines for
9 preventing workplace violence for health care and social
10 service workers as amended or updated by the Occupational
11 Safety and Health Administration.

12 (a-5) In addition, the workplace violence prevention
13 program shall include:

14 (1) the following classifications of workplace
15 violence as one of 4 possible types:

16 (A) "Type 1 violence" means workplace violence
17 committed by a person who has no legitimate business at
18 the work site and includes violent acts by anyone who
19 enters the workplace with the intent to commit a crime.

20 (B) "Type 2 violence" means workplace violence
21 directed at employees by customers, clients, patients,
22 students, inmates, visitors, or other individuals
23 accompanying a patient. "Type 2 violence" does not
24 include:

25 (i) the actions of customers, clients,

1 patients, students, inmates, visitors, or other
2 individuals who have presented for assessment,
3 evaluation, or treatment of a mental health or
4 behavioral health conditions unless clear and
5 convincing evidence exists that indicates that
6 such acts were in no way related to the mental
7 health or behavioral health condition; or

8 (ii) situations in which medical treatment for
9 a psychiatric condition is the primary presenting
10 issue and patient care would be compromised by
11 transfer to a custodial agency.

12 (C) "Type 3 violence" means workplace violence
13 against an employee by a present or former employee,
14 supervisor, or manager.

15 (D) "Type 4 violence" means workplace violence
16 committed in the workplace by someone who does not work
17 there, but has or is known to have had a personal
18 relationship with an employee; ~~and~~

19 (2) management commitment and worker participation,
20 including, but not limited to, nurses;

21 (3) worksite analysis and identification of potential
22 hazards;

23 (4) hazard prevention and control;

24 (5) safety and health training with required hours
25 determined by rule; and

26 (6) recordkeeping and evaluation of the violence

1 prevention program.

2 (b) The Department of Public Health may by rule adopt
3 additional criteria for workplace violence prevention
4 programs.

5 (Source: P.A. 100-1051, eff. 1-1-19; revised 10-4-18.)

6 (210 ILCS 160/30)

7 Sec. 30. Medical care for custodial detainees ~~committed~~
8 ~~persons~~.

9 (a) If a custodial detainee ~~committed person~~ receives
10 medical care and treatment at a place other than an institution
11 or facility of the Department of Corrections, a county, or a
12 municipality, then the institution or facility shall:

13 (1) to the greatest extent practicable, notify the
14 hospital or medical facility that is treating the custodial
15 detainee ~~committed person~~ prior to the custodial
16 detainee's ~~committed person's~~ visit and notify the
17 hospital or medical facility of any significant medical,
18 mental health, recent violent actions, or other safety
19 concerns regarding the patient;

20 (2) to the greatest extent practicable, ensure the
21 transferred custodial detainee ~~committed person~~ is
22 accompanied by the most comprehensive medical records
23 possible;

24 (3) ensure that the custodial detainee is accompanied
25 by personnel authorized by the commander or chief operating

1 officer of the institution or facility to transport and
2 retain custody of custodial detainees, or provide at least
3 one guard trained in custodial escort and custody of
4 high-risk custodial detainees ~~committed persons~~ to
5 accompany any custodial detainee ~~committed person~~. The
6 custodial agency shall attest to such training for
7 custodial escort and custody of high-risk custodial
8 detainees ~~committed persons~~ through: (A) the training of
9 the Department of Corrections or Department of Juvenile
10 Justice; (B) law enforcement training that is
11 substantially equivalent to the training of the Department
12 of Corrections or Department of Juvenile Justice; or (C)
13 the training described in Section 35. Under no
14 circumstances may leg irons or shackles or waist shackles
15 be used on any pregnant female prisoner who is in labor. In
16 addition, restraint of a pregnant female prisoner in the
17 custody of the Cook County shall comply with Section
18 3-15003.6 of the Counties Code. Additionally, restraints
19 shall not be used on a custodial detainee ~~committed person~~
20 if medical personnel determine that the restraints would
21 impede medical treatment; and

22 (4) ensure that only medical personnel, Department of
23 Corrections, county, or municipality personnel, and
24 visitors on the custodial detainee's ~~committed person's~~
25 approved institutional visitors list may visit the
26 custodial detainee ~~committed person~~. Visitation by a

1 person on the custodial detainee's ~~committed person's~~
2 approved institutional visitors list shall be subject to
3 the rules and procedures of the hospital or medical
4 facility and the Department of Corrections, county, or
5 municipality. In any situation in which a custodial
6 detainee ~~committed person~~ is being visited:

7 (A) the name of the visitor must be listed per the
8 facility's or institution's documentation;

9 (B) the visitor shall submit to the search of his
10 or her person or any personal property under his or her
11 control at any time; and

12 (C) the custodial agency may deny the custodial
13 detainee ~~committed person~~ access to a telephone or
14 limit the number of visitors the custodial detainee
15 ~~committed person~~ may receive for purposes of safety.

16 If a custodial detainee ~~committed person~~ receives medical
17 care and treatment at a place other than an institution or
18 facility of the Department of Corrections, county, or
19 municipality, then the custodial agency shall ensure that the
20 custodial detainee ~~committed person~~ is wearing security
21 restraints in accordance with the custodial agency's rules and
22 procedures if the custodial agency determines that restraints
23 are necessary for the following reasons: (i) to prevent
24 physical harm to the custodial detainee ~~committed person~~ or
25 another person; (ii) because the custodial detainee ~~committed~~
26 ~~person~~ has a history of disruptive behavior that has placed

1 others in potentially harmful situations or presents a
2 substantial risk of inflicting physical harm on himself or
3 herself or others as evidenced by recent behavior; or (iii)
4 there is a well-founded belief that the custodial detainee
5 ~~committed person~~ presents a substantial risk of flight. Under
6 no circumstances may leg irons or shackles or waist shackles be
7 used on any pregnant female prisoner who is in labor. In
8 addition, restraint of a pregnant female prisoner in the
9 custody of the Cook County shall comply with Section 3-15003.6
10 of the Counties Code.

11 The hospital or medical facility may establish protocols
12 for the receipt of custodial detainees ~~committed persons~~ in
13 collaboration with the Department of Corrections, county, or
14 municipality, specifically with regard to potentially violent
15 persons.

16 (b) If a custodial detainee ~~committed person~~ receives
17 medical care and treatment at a place other than an institution
18 or facility of the Department of Juvenile Justice, then the
19 institution or facility shall:

20 (1) to the greatest extent practicable, notify the
21 hospital or medical facility that is treating the custodial
22 detainee ~~committed person~~ prior to the custodial
23 detainee's ~~committed person's~~ visit, and notify the
24 hospital or medical facility of any significant medical,
25 mental health, recent violent actions, or other safety
26 concerns regarding the patient;

1 (2) to the greatest extent practicable, ensure the
2 transferred custodial detainee ~~committed person~~ is
3 accompanied by the most comprehensive medical records
4 possible;

5 (3) provide: (A) at least one guard trained in
6 custodial escort and custody of high-risk custodial
7 detainees ~~committed persons~~ to accompany any custodial
8 detainee ~~committed person~~. The custodial agency shall
9 attest to such training for custodial escort and custody of
10 high-risk custodial detainees ~~committed persons~~ through:
11 (i) the training of the Department of Corrections or
12 Department of Juvenile Justice, (ii) law enforcement
13 training that is substantially equivalent to the training
14 of the Department of Corrections or Department of Juvenile
15 Justice, or (iii) the training described in Section 35; ~~or~~
16 (B) 2 guards to accompany the custodial detainee ~~committed~~
17 ~~person~~ at all times during the visit to the hospital or
18 medical facility; or (C) ensure that the custodial detainee
19 is accompanied by personnel authorized by the commander or
20 chief operating officer of the institution or facility to
21 transport and retain custody of custodial detainees; and

22 (4) ensure that only medical personnel, Department of
23 Juvenile Justice personnel, and visitors on the custodial
24 detainee's ~~committed person's~~ approved institutional
25 visitors list may visit the custodial detainee ~~committed~~
26 ~~person~~. Visitation by a person on the custodial detainee's

1 ~~committed person's~~ approved institutional visitors list
2 shall be subject to the rules and procedures of the
3 hospital or medical facility and the Department of Juvenile
4 Justice. In any situation in which a custodial detainee
5 ~~committed person~~ is being visited:

6 (A) the name of the visitor must be listed per the
7 facility's or institution's documentation;

8 (B) the visitor shall submit to the search of his
9 or her person or any personal property under his or her
10 control at any time; and

11 (C) the custodial agency may deny the custodial
12 detainee ~~committed person~~ access to a telephone or
13 limit the number of visitors the custodial detainee
14 ~~committed person~~ may receive for purposes of safety.

15 If a custodial detainee ~~committed person~~ receives medical
16 care and treatment at a place other than an institution or
17 facility of the Department of Juvenile Justice, then the
18 Department of Juvenile Justice shall ensure that the custodial
19 detainee ~~committed person~~ is wearing security restraints on
20 either his or her wrists or ankles in accordance with the rules
21 and procedures of the Department of Juvenile Justice if the
22 Department of Juvenile Justice determines that restraints are
23 necessary for the following reasons: (i) to prevent physical
24 harm to the custodial detainee ~~committed person~~ or another
25 person; (ii) because the custodial detainee ~~committed person~~
26 has a history of disruptive behavior that has placed others in

1 potentially harmful situations or presents a substantial risk
2 of inflicting physical harm on himself or herself or others as
3 evidenced by recent behavior; or (iii) there is a well-founded
4 belief that the custodial detainee ~~committed person~~ presents a
5 substantial risk of flight. Any restraints used on a committed
6 person under this paragraph shall be the least restrictive
7 restraints necessary to prevent flight or physical harm to the
8 custodial detainee ~~committed person~~ or another person.
9 Restraints shall not be used on the custodial detainee
10 ~~committed person~~ as provided in this paragraph if medical
11 personnel determine that the restraints would impede medical
12 treatment. Under no circumstances may leg irons or shackles or
13 waist shackles be used on any pregnant female prisoner who is
14 in labor. In addition, restraint of a pregnant female prisoner
15 in the custody of the Cook County shall comply with Section
16 3-15003.6 of the Counties Code.

17 The hospital or medical facility may establish protocols
18 for the receipt of custodial detainees ~~committed persons~~ in
19 collaboration with the Department of Juvenile Justice,
20 specifically with regard to persons recently exhibiting
21 violence.

22 (Source: P.A. 100-1051, eff. 1-1-19.)

23 (210 ILCS 160/35)

24 Sec. 35. Custodial agency training. The Illinois Law
25 Enforcement Training Standards Board shall establish a

1 curriculum for custodial escort and custody of high-risk
2 custodial detainees ~~committed persons~~ certification, which
3 shall include, but not be limited to, the following:

4 (1) handcuffing or shackling of a high-risk custodial
5 detainee ~~committed person~~;

6 (2) mobile transportation of a custodial detainee
7 ~~committed person~~ with defense from the custodial
8 detainee's ~~committed person's~~ attack;

9 (3) outside facility threat assessment;

10 (4) hands-on weapons retention training; and

11 (5) custodial considerations for a high-risk custodial
12 detainee ~~committed person~~ in outside facilities.

13 (Source: P.A. 100-1051, eff. 1-1-19.)

14 Section 99. Effective date. This Act takes effect January
15 1, 2020.

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Statutes amended in order of appearance

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