



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3947

Introduced 1/21/2022, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

New Act

Creates the Second Chance State Behavioral Health Workforce Development Act. Contains findings. Provides that each institution of higher education shall annually allow for the admission of at least one returning resident (a person who is a resident of and domiciled in Illinois, has graduated from high school or the equivalent, has been convicted of a felony by a specified court, was sentenced to incarceration pursuant to that conviction, and is no longer incarcerated) in an undergraduate or graduate academic program that will lead to the qualification of the returning resident as a behavioral health care professional. Provides that the returning resident shall not be required to pay any tuition, fee, or other charge for any class the returning resident takes if the State appropriates funds for reimbursement. Provides that the Illinois Student Assistance Commission shall contract with community-based organizations and legal service providers to provide specified services to returning residents. Provides that certain criminal convictions and dispositions are not cause for a licensing agency to deny an individual a license, permission, or authorization to be a behavioral health care professional. Provides that a licensing agency shall consider specified mitigating factors when considering an application for a license, permission, or other authorization to be a behavioral health care professional. Provides that, if a licensing agency refuses to issue a license, permission, or other authorization to perform a behavioral health care profession based upon a conviction, the licensing agency shall notify the individual of the denial with specified information included in the notice of denial. Provides that neither the Commission nor a community-based organization providing services under the Act shall enter into a contractual or other financial, service, or volunteer relationship with and shall not pay any money or provide any other form of consideration to specified persons or entities. Provides that institutions of higher education shall strictly comply with the Act and the Commission shall take actions necessary to obtain compliance and enforce the Act. Contains provisions concerning judicial proceedings, certifications, adoption of rules, notices, conflicts, severability, and other matters. Effective immediately.

LRB102 25792 CMG 35126 b

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 1. Short title. This Act may be cited as the Second
5 Chance State Behavioral Health Workforce Development Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) The insufficient number of behavioral health
8 professionals in Illinois' behavioral health workforce has
9 created a public health crisis.

10 (2) A University of Southern California study estimates
11 that this shortage increased by approximately 201% between
12 2017 and 2018, alone. As a result, about 38% or nearly 4.9
13 million Illinoisans reside in behavioral health workforce
14 shortage areas.

15 (3) Justice-involved individuals are among the populations
16 in Illinois who are most severely impacted by this shortage.
17 According to the University of Southern California study,
18 people living with mental illness are more likely to encounter
19 the criminal justice system, resulting in a large number of
20 arrests and incarcerations and recidivism. The overall cost of
21 incarceration of more than 8,000 prisoners with serious mental
22 illness in the State of Illinois exceeds \$190 million per
23 year. It costs Illinois over \$151,000 each time one of those

1 individuals recidivates.

2 (4) Studies have demonstrated the effectiveness of
3 allowing persons with similarly lived experiences to provide
4 behavioral health services to this population.

5 (5) To end the behavioral health workforce shortage that
6 affects Illinois as a whole and the justice-involved
7 population in particular, it is therefore in this State's best
8 interest to provide pathways for those with lived carceral
9 experience to gain the training and credentials they need to
10 provide behavioral health services.

11 Section 10. Definitions. As used in this Act:

12 "Behavioral health care profession" means a profession
13 involving the provision of behavioral health care including,
14 without limitation, qualified mental health professionals,
15 certified alcohol and drug counselors, peer support
16 specialists, clinical psychologists, licensed clinical social
17 workers, licensed social workers, marriage and family
18 therapists, professional counselors, clinical professional
19 counselors, and sex offender treatment providers.

20 "Behavioral health care professional" means a person
21 engaged in a behavioral health care profession.

22 "Commission" means the Illinois Student Assistance
23 Commission.

24 "Community-based organization" means a private, non-profit
25 entity that has established and demonstrable experience

1 providing behavioral health care and other services to
2 Illinois' returning resident community and an understanding of
3 the issues affecting those returning residents, which is
4 evidenced by (1) the provision of behavioral health and other
5 services to returning residents in Illinois for at least 5
6 years; (2) experience providing returning residents with
7 assistance regarding issues necessary for those returning
8 residents' success in life, including, without limitation, job
9 preparation training, skills training, job placement, housing,
10 financial and digital literacy and physical and behavioral
11 health; (3) experience providing educational programming to
12 returning residents; (4) experience providing that assistance
13 on a comprehensive, coordinated, and holistic basis; (5)
14 having established relationships with other community-based
15 service providers that serve returning residents' needs; (6) a
16 history of employing returning residents; and (7) leadership
17 that reflects the diversity of the community in which the
18 organization operates.

19 "Degree granting institution" shall have the meaning set
20 forth in Section 2 of the Academic Degree Act.

21 "For-profit correctional entity" means a person or entity
22 that directly, indirectly, or beneficially operates a
23 correctional or detention facility for profit.

24 "Institution of higher education" means any publicly or
25 privately operated university, college, community college,
26 business, technical, or vocational school, or other

1 educational institution offering degrees or instruction beyond
2 the secondary school level, including, without limitation, a
3 degree granting institution, post-secondary educational
4 institution, public institution of higher education, or any
5 institution that operates pursuant to authority provided to it
6 by the Board of Higher Education or the Board of Higher
7 Education Act.

8 "Licensing agency" means the State or any agency or other
9 political subdivision of the State that is authorized to grant
10 a license, permission, or other authorization for an
11 individual to be a behavioral health care professional,
12 including, without limitation, individuals providing services
13 as qualified mental health professionals, certified alcohol
14 and drug counselors, peer support specialists, clinical
15 psychologists, licensed clinical social workers, licensed
16 social workers, marriage and family therapists, professional
17 counselors, clinical professional counselors, and sex offender
18 treatment providers.

19 "Post-secondary educational institution" has the meaning
20 set forth in Section 1 of the Private College Act.

21 "Public institutions of higher education" has the meaning
22 set forth in Section 1 of the Board of Higher Education Act.

23 "Returning resident" means a person who: (1) is a resident
24 of and domiciled in Illinois; (2) has graduated from high
25 school or the equivalent; (3) has been convicted of a felony or
26 similar crime by any state or federal court sitting in the

1 United States, any territory thereof, the District of
2 Columbia, or any United States military tribunal; (4) was
3 sentenced to incarceration pursuant to that conviction; and
4 (5) is no longer incarcerated.

5 Section 15. Administration of Act. The Commission shall
6 administer all programs, services, and all other provisions of
7 Sections 20 and 25, provide administrative support for the
8 implementation of those Sections, and is authorized to adopt
9 rules necessary to implement those Sections.

10 Section 20. Returning resident enrollment rights.

11 (a) Each institution of higher education shall annually
12 allow for the admission of at least one returning resident in
13 an academic program that is intended to culminate in the
14 granting of undergraduate and graduate degrees by that
15 institution of higher education that will satisfy academic
16 prerequisites and lead to the qualification of the returning
17 resident to be a behavioral health care professional.

18 (b) If the institution of higher education requires
19 students to have completed an entrance examination as a
20 precondition to admission to the program in which the
21 returning resident seeks admission, the returning resident
22 shall be admitted to that program if the returning resident's
23 score on such examination is at least equivalent to the lowest
24 score achieved by a person who was admitted in the previous

1 year to the same program at the institution of higher
2 education to which the returning resident seeks admission.

3 (c) The returning resident shall not be subject to any
4 residency requirements otherwise applicable to enrollment in a
5 class at the institution of higher education; however, the
6 returning resident shall be a resident of and domiciled in
7 Illinois.

8 (d) Except as provided herein, the returning resident
9 shall be subject to all other academic requirements that apply
10 to other students in the academic program in which the
11 returning resident is enrolled.

12 (e) The returning resident shall not be required to pay
13 any tuition, fee, or other charge for any class the returning
14 resident takes pursuant to this Act if the State appropriates
15 funds to reimburse the institution of higher education for the
16 tuition, fees, or other charges that the returning resident
17 would have otherwise paid to the institution for higher
18 education.

19 (f) The returning resident shall complete the screening
20 process set forth in Section 25 and shall not have the status
21 of being unconditionally disqualified from obtaining the
22 license, permission, or other authorization the returning
23 resident would require in order to engage in the specific
24 behavioral health care profession for which the returning
25 resident seeks training pursuant to this Act.

1 Section 25. Returning resident pre-enrollment screening
2 and services.

3 (a) Subject to appropriation, the Commission shall:

4 (1) contract with one or more community-based
5 organizations to: (A) screen each returning resident who
6 seeks enrollment in an institution of higher education
7 pursuant to this Act to determine and advise the returning
8 resident of the statutory disqualifications or conditions
9 that apply to the returning resident's ability to obtain a
10 license, permission, or other authorization from a State
11 agency that the returning resident would require in order
12 to engage in the specific behavioral health care
13 profession for which the returning resident seeks training
14 pursuant to this Act; and (B) provide courses and other
15 training necessary to prepare returning residents for
16 entrance examinations and other matters required for
17 admission to institutions of higher education pursuant to
18 this Act; and

19 (2) contract with one or more legal service providers
20 to provide legal services to returning residents that are
21 needed to fulfill the statutory conditions that apply to
22 the returning resident's ability to obtain a license,
23 permission, or other authorization that the returning
24 resident would require in order to engage in the specific
25 behavioral health care profession for which the returning
26 resident seeks training pursuant to this Act, including,

1 without limitation, sealing-related, expungement-related,
2 and clemency-related proceedings.

3 (b) Within 6 months of the effective date of this Act, the
4 Commission shall publish notice of proposed rules in the
5 Illinois Register that set forth procedures for the screening
6 of returning residents for admission to institutions of higher
7 education pursuant to this Act.

8 Section 30. Returning resident licensure.

9 (a) Notwithstanding the provisions of any other law:

10 (1) A non-conviction disposition of a criminal
11 proceeding against an individual shall not be cause for a
12 licensing agency to deny that individual a license or any
13 other permission or authorization legally required to be a
14 behavioral health care professional.

15 (2) A misdemeanor conviction shall not be cause for a
16 licensing agency to deny that individual a license or any
17 other permission or authorization legally required to be a
18 behavioral health care professional, regardless of the
19 sentence imposed pursuant to that conviction.

20 (3) A conviction that is unrelated to the specific
21 behavioral health care profession in which the convicted
22 individual seeks to engage shall not be cause for a
23 licensing agency to deny that individual a license or any
24 other permission or authorization legally required to
25 engage in that behavioral health care profession. Without

1 limiting the foregoing, convictions for (i) drug related
2 offenses; (ii) offenses involving dishonesty or fraud;
3 (iv) violation of any provision of the Illinois Vehicle
4 Code; (v) second degree murder; (vi) involuntary
5 manslaughter; (vii) reckless homicide; (viii) drug induced
6 homicide; or (xi) any other offense that did not involve
7 the actual use of physical force, except, promoting
8 juvenile prostitution, patronizing a minor engaged in
9 prostitution, grooming, traveling to meet a child,
10 terrorism, or treason, shall be construed to be unrelated
11 to any behavioral health care profession.

12 (b) When a licensing agency is considering an application
13 for a license, permission, or other authorization to be a
14 behavioral health care professional by an individual who has
15 been convicted of an offense that is related to the specific
16 behavioral health care profession in which the convicted
17 individual seeks to engage, the licensing agency shall
18 consider the following mitigating factors in connection with
19 the individual's conviction:

20 (1) the bearing, if any, the criminal offense or
21 offenses for which the individual was previously convicted
22 will have on the individual's fitness or ability to
23 perform one or more such duties and responsibilities of
24 the specific behavioral health care profession in which
25 the individual wishes to engage;

26 (2) the time that has elapsed since the criminal

1 conviction;

2 (3) the age of the individual at the time of the
3 criminal conviction;

4 (4) if the individual was previously licensed or
5 employed in this State or other states or jurisdictions,
6 the lack of prior misconduct arising from or related to
7 the licensed position or position of employment;

8 (5) successful completion of sentence and, for
9 individuals serving a term of parole, probation, or
10 mandatory supervised release, a progress report provided
11 by the applicant's probation or parole officer that
12 documents the individual's compliance with conditions of
13 supervision;

14 (6) evidence of the applicant's present fitness and
15 professional character;

16 (7) evidence of rehabilitation or rehabilitative
17 effort during or after incarceration, or during or after a
18 term of supervision, including, but not limited to, a
19 certificate of good conduct under Section 5-5.5-25 of the
20 Unified Code of Corrections or a certificate of relief
21 from disabilities under Section 5-5.5-10 of the Unified
22 Code of Corrections;

23 (8) the financial and other impacts that failure to
24 grant the license, permission, or other authorization will
25 have on the individual; and

26 (9) any other mitigating factors that contribute to

1 the individual's potential and current ability to perform
2 the duties of the behavioral health care profession in
3 which the individual wishes to engage.

4 (c) If a licensing agency refuses to issue a license,
5 permission, or other authorization for an individual to
6 perform a behavioral health care profession based upon a
7 conviction or convictions, in whole or in part, the licensing
8 agency shall notify the individual of the denial in writing
9 with the following included in the notice of denial:

10 (1) a detailed explanation of all reasons for the
11 refusal to grant the license, permission, or other
12 authorization, including, without limitation, the factual
13 and legal basis for the refusal;

14 (2) a list of convictions that a licensing agency
15 determined will impair the individual's ability to engage
16 in the position for which a license, permission, or other
17 authorization is required;

18 (3) a list of convictions that formed the sole or
19 partial basis for the refusal to issue a license,
20 permission, or other authorization; and

21 (4) a summary of the appeal process or the earliest
22 the individual may reapply for a license, permission, or
23 other authorization, whichever is applicable.

24 (d) Each licensing agency that has not promulgated rules
25 providing an individual who has been denied a license,
26 permission, or other authorization to be a behavioral health

1 care professional due to a conviction with a means of
2 appealing that denial, shall publish notice of proposed rules
3 in the Illinois Register within 6 months of the effective date
4 of this Act.

5 Section 35. Prohibition on relationships with for-profit
6 correctional entities.

7 (a) Neither the Commission nor any community-based
8 organization providing services pursuant to this Act shall
9 enter into a contractual or other financial, service, or
10 volunteer relationship with and shall not pay any money or
11 provide any other form of consideration to:

12 (1) a for-profit correctional entity;

13 (2) a person or entity that directly, indirectly, or
14 beneficially, in the person's or entity's own name or in
15 the name of a nominee, has an ownership interest in or
16 other form of control over more than 7 1/2% of a for-profit
17 correctional entity;

18 (3) an entity where a person or entity described in
19 paragraph (1) or (2) directly, indirectly, or
20 beneficially, in the person's or entity's own name or in
21 the name of a nominee, has an ownership interest in or
22 other form of control over more than 7 1/2%;

23 (4) an entity where a person described in paragraph
24 (2) is an officer, director, trustee, administrator, or
25 employee;

1 (5) a person who is or has been an officer, director,
2 trustee, administrator, or employee of a for-profit
3 correctional entity;

4 (6) an entity where a person described in paragraph
5 (5) is an officer, director, trustee, administrator, or
6 employee;

7 (7) an entity in which a for-profit correctional
8 entity, directly, indirectly, or beneficially, in its own
9 name or in the name of a nominee, has an ownership interest
10 in or other form of control over more than 7 1/2%;

11 (8) a non-profit entity that was or is organized by,
12 operated by, funded in part by, or has an officer,
13 director, trustee, administrator, or employee any person
14 or entity described in paragraphs (1) through (7).

15 (b) A community-based organization providing services
16 pursuant to this Act shall not assign or otherwise transfer
17 any of its powers, duties, or obligations that are set forth in
18 this Act or any agreement it enters pursuant to this Act to any
19 person or entity described in subsection (a). The Commission,
20 any officer, director, administrator, or employee of the
21 Commission, a community-based organization providing services
22 pursuant to this Act or any officer, director, trustee,
23 administrator, or employee of such community-based
24 organization shall not refer a returning resident for any
25 service whatsoever to a person or entity described in
26 paragraphs (1) through (7) of subsection (a).

1 (c) Each party to any contract, agreement, memorandum of
2 understanding, or similar instrument with the Commission or a
3 community-based organization providing services pursuant to
4 this Act shall certify in writing that under penalty of
5 perjury, the party has performed due diligence to determine
6 whether the party complies with this Section and, after
7 performing the due diligence, has determined that the party
8 complies with this Section.

9 (d) Each employee of the Commission and each
10 community-based organization providing services pursuant to
11 this Act shall certify in writing that the employee or
12 organization has performed due diligence to determine whether
13 the employee or organization complies with this Section and,
14 after performing the due diligence, has determined that the
15 employee or organization complies with this Section.

16 Section 40. Enforcement. Institutions of higher education
17 shall strictly comply with the provisions of this Act. The
18 Commission is authorized, directed, and required to take all
19 actions necessary to obtain such compliance and otherwise
20 enforce the provisions of this Act. Notwithstanding and in
21 addition to any other requirement of this Act or any other
22 provision of law:

23 (1) The provisions of this Act may be enforced
24 pursuant to judicial proceedings against an alleged
25 violator that seek to require the violator to cease and

1 desist from violating this Act, allow one or more
2 returning residents to be admitted to an institution of
3 higher education or enroll in the class or classes they
4 are entitled to enroll in pursuant to this Act, and pay any
5 damages suffered by one or more returning residents for
6 violation of this Act.

7 (2) A returning resident shall have a private right of
8 action to enforce the provisions of this Act by personally
9 bringing an action pursuant to paragraph (1). Any
10 institution of higher education that is found liable for
11 violation of this Act pursuant to this subsection shall,
12 in addition to other damages, be liable to pay all
13 reasonable attorney's fees, costs, and expenses incurred
14 by the returning resident and that pertain to the
15 returning resident's actions to enforce the returning
16 resident's rights against that institution of higher
17 education pursuant to this Act.

18 (3) Venue for any action brought pursuant to this
19 Section shall be in the county where the returning
20 resident who is the subject of the action is domiciled.

21 Section 45. Provisions of Act mandatory; conflicts.
22 Subject only to appropriation, the provisions of this Act are
23 mandatory and shall not be considered to be directory or
24 discretionary. In the event of a conflict between the
25 provisions of this Act and the provisions of the Higher

1 Education Student Assistance Act, the provisions of this Act
2 shall prevail.

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.