



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2285

Introduced 2/14/2023, by Rep. Lakesia Collins

SYNOPSIS AS INTRODUCED:

225 ILCS 46/15

Amends the Health Care Worker Background Check Act. Adds to the definition of "health care employer", a financial management services entity contracted with the Department of Human Services, which is not the employer of personal support workers but supports individuals receiving participant directed services, to administer the individuals' employer authority. Provides that a financial management services entity assists participants in completing background check requirements, collecting and processing time sheets for support workers, and processing payroll, withholding, filing, and payment of applicable federal, State, and local employment-related taxes and insurance.

LRB103 26209 AMQ 52568 b

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 Worker Background Check Act is
5 amended by changing Section 15 as follows:

6 (225 ILCS 46/15)

7 Sec. 15. Definitions. In this Act:

8 "Applicant" means an individual enrolling in a training
9 program, seeking employment, whether paid or on a volunteer
10 basis, with a health care employer who has received a bona fide
11 conditional offer of employment.

12 "Conditional offer of employment" means a bona fide offer
13 of employment by a health care employer to an applicant, which
14 is contingent upon the receipt of a report from the Department
15 of Public Health indicating that the applicant does not have a
16 record of conviction of any of the criminal offenses
17 enumerated in Section 25.

18 "Department" means the Department of Public Health.

19 "Direct care" means the provision of nursing care or
20 assistance with feeding, dressing, movement, bathing,
21 toileting, or other personal needs, including home services as
22 defined in the Home Health, Home Services, and Home Nursing
23 Agency Licensing Act. The entity responsible for inspecting

1 and licensing, certifying, or registering the health care
2 employer may, by administrative rule, prescribe guidelines for
3 interpreting this definition with regard to the health care
4 employers that it licenses.

5 "Director" means the Director of Public Health.

6 "Disqualifying offenses" means those offenses set forth in
7 Section 25 of this Act.

8 "Employee" means any individual hired, employed, or
9 retained, whether paid or on a volunteer basis, to which this
10 Act applies.

11 "Finding" means the Department's determination of whether
12 an allegation is verified and substantiated.

13 "Fingerprint-based criminal history records check" means a
14 livescan fingerprint-based criminal history records check
15 submitted as a fee applicant inquiry in the form and manner
16 prescribed by the Illinois State Police.

17 "Health care employer" means:

18 (1) the owner or licensee of any of the following:

19 (i) a community living facility, as defined in the
20 Community Living Facilities Licensing Act;

21 (ii) a life care facility, as defined in the Life
22 Care Facilities Act;

23 (iii) a long-term care facility;

24 (iv) a home health agency, home services agency,
25 or home nursing agency as defined in the Home Health,
26 Home Services, and Home Nursing Agency Licensing Act;

1 (v) a hospice care program or volunteer hospice
2 program, as defined in the Hospice Program Licensing
3 Act;

4 (vi) a hospital, as defined in the Hospital
5 Licensing Act;

6 (vii) (blank);

7 (viii) a nurse agency, as defined in the Nurse
8 Agency Licensing Act;

9 (ix) a respite care provider, as defined in the
10 Respite Program Act;

11 (ix-a) an establishment licensed under the
12 Assisted Living and Shared Housing Act;

13 (x) a supportive living program, as defined in the
14 Illinois Public Aid Code;

15 (xi) early childhood intervention programs as
16 described in 59 Ill. Adm. Code 121;

17 (xii) the University of Illinois Hospital,
18 Chicago;

19 (xiii) programs funded by the Department on Aging
20 through the Community Care Program;

21 (xiv) programs certified to participate in the
22 Supportive Living Program authorized pursuant to
23 Section 5-5.01a of the Illinois Public Aid Code;

24 (xv) programs listed by the Emergency Medical
25 Services (EMS) Systems Act as Freestanding Emergency
26 Centers;

1 (xvi) locations licensed under the Alternative
2 Health Care Delivery Act;

3 (2) a day training program certified by the Department
4 of Human Services;

5 (3) a community integrated living arrangement operated
6 by a community mental health and developmental service
7 agency, as defined in the Community-Integrated Living
8 Arrangements Licensure and Certification Act;

9 (4) the State Long Term Care Ombudsman Program,
10 including any regional long term care ombudsman programs
11 under Section 4.04 of the Illinois Act on the Aging, only
12 for the purpose of securing background checks; ~~or~~

13 (5) the Department of Corrections or a third-party
14 vendor employing certified nursing assistants working with
15 the Department of Corrections; or ~~-~~

16 (6) a financial management services entity contracted
17 with the Department of Human Services, which is not the
18 employer of personal support workers but supports
19 individuals receiving participant directed services, to
20 administer the individuals' employer authority. A
21 financial management services entity assists participants
22 in completing background check requirements, collecting
23 and processing time sheets for support workers, and
24 processing payroll, withholding, filing, and payment of
25 applicable federal, State, and local employment-related
26 taxes and insurance.

1 "Initiate" means obtaining from a student, applicant, or
2 employee his or her social security number, demographics, a
3 disclosure statement, and an authorization for the Department
4 of Public Health or its designee to request a
5 fingerprint-based criminal history records check; transmitting
6 this information electronically to the Department of Public
7 Health; conducting Internet searches on certain web sites,
8 including without limitation the Illinois Sex Offender
9 Registry, the Department of Corrections' Sex Offender Search
10 Engine, the Department of Corrections' Inmate Search Engine,
11 the Department of Corrections Wanted Fugitives Search Engine,
12 the National Sex Offender Public Registry, and the List of
13 Excluded Individuals and Entities database on the website of
14 the Health and Human Services Office of Inspector General to
15 determine if the applicant has been adjudicated a sex
16 offender, has been a prison inmate, or has committed Medicare
17 or Medicaid fraud, or conducting similar searches as defined
18 by rule; and having the student, applicant, or employee's
19 fingerprints collected and transmitted electronically to the
20 Illinois State Police.

21 "Livescan vendor" means an entity whose equipment has been
22 certified by the Illinois State Police to collect an
23 individual's demographics and inkless fingerprints and, in a
24 manner prescribed by the Illinois State Police and the
25 Department of Public Health, electronically transmit the
26 fingerprints and required data to the Illinois State Police

1 and a daily file of required data to the Department of Public
2 Health. The Department of Public Health shall negotiate a
3 contract with one or more vendors that effectively demonstrate
4 that the vendor has 2 or more years of experience transmitting
5 fingerprints electronically to the Illinois State Police and
6 that the vendor can successfully transmit the required data in
7 a manner prescribed by the Department of Public Health. Vendor
8 authorization may be further defined by administrative rule.

9 "Long-term care facility" means a facility licensed by the
10 State or certified under federal law as a long-term care
11 facility, including without limitation facilities licensed
12 under the Nursing Home Care Act, the Specialized Mental Health
13 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
14 the MC/DD Act, a supportive living facility, an assisted
15 living establishment, or a shared housing establishment or
16 registered as a board and care home.

17 "Resident" means a person, individual, or patient under
18 the direct care of a health care employer or who has been
19 provided goods or services by a health care employer.

20 (Source: P.A. 101-176, eff. 7-31-19; 102-226, eff. 7-30-21;
21 102-503, eff. 8-20-21; 102-538, eff. 8-20-21; 102-813, eff.
22 5-13-22.)