



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2453

Introduced 2/15/2023, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

225 ILCS 46/25
225 ILCS 46/65
735 ILCS 5/Art. VIII Pt. 30 heading new
735 ILCS 5/8-3001 new

Amends the Health Care Worker Background Check Act. Provides that a health care employer or long-term care facility may hire, employ, or retain any individual in a position involving direct care for clients, patients, or residents, or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more specified offenses, either within 5, 10, or 25 years after the date of conviction, only with a waiver. Provides that the Health Care Worker Task Force shall include: 2 individuals with a criminal record who work with a community organization that works with people with criminal records; an individual from a legal services agency that represents people with criminal records; an individual from an organization that advocates for improved opportunity for people with criminal records; and a representative from a provider that helps connect people with criminal records with employment. Provides that on or before January 1, 2025, the Task Force shall issue recommendations to the Department of Public Health. Provides that beginning January 1, 2024, the Task Force shall make recommendations to the Department regarding connecting people with criminal records to employment with work in the health care industry. Provides that on or before January 1 of each year, the Department shall report to the Task Force, the Governor, and both houses of the General Assembly specified information for the previous fiscal year. Makes conforming changes to the Code of Civil Procedure.

LRB103 28583 AMQ 54964 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 Sections 25 and 65 as follows:

6 (225 ILCS 46/25)

7 Sec. 25. Hiring of people with criminal records by health
8 care employers and long-term care facilities.

9 (a) A health care employer or long-term care facility may
10 hire, employ, or retain any individual in a position involving
11 direct care for clients, patients, or residents, or access to
12 the living quarters or the financial, medical, or personal
13 records of ~~clients, patients, or residents,~~ who has been
14 convicted of committing or attempting to commit one or more of
15 the following offenses described in this subsection, within 5
16 years after the date of conviction, only with a waiver
17 described in Section 40: ~~those defined in Sections 8-1(b),~~
18 ~~8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2,~~
19 ~~9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7,~~
20 ~~11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1,~~
21 ~~11-9.2, 11-9.3, 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B,~~
22 ~~11-20.3, 12-1, 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4,~~
23 ~~12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7,~~

~~12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19,
12-20.5, 12-21, 12-21.5, 12-21.6, 12-32, 12-33, 12C-5, 12C-10,
16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3,
18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1, 20-1.1, 24-1,
24-1.2, 24-1.5, 24-1.8, 24-3.8, or 33A-2, or subdivision
(a)(4) of Section 11-14.4, or in subsection (a) of Section
12-3 or subsection (a) or (b) of Section 12-4.4a, of the
Criminal Code of 1961 or the Criminal Code of 2012; those
provided in Section 4 of the Wrongs to Children Act; those
provided in Section 53 of the Criminal Jurisprudence Act;
those defined in subsection (c), (d), (e), (f), or (g) of
Section 5 or Section 5.1, 5.2, 7, or 9 of the Cannabis Control
Act; those defined in the Methamphetamine Control and
Community Protection Act; those defined in Sections 401,
401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
Controlled Substances Act; or subsection (a) of Section 3.01,
Section 3.02, or Section 3.03 of the Humane Care for Animals
Act.~~

(1) a misdemeanor offense defined in Section 16-1 or
16-25 of the Criminal Code of 2012; or

(2) an offense defined in Section 16-2, 17-33, 17-34,
17-36, 17-44, 19-4, or in subsection (a) of Section 12-3
of the Criminal Code of 2012.

If more than 5 years have passed since the date of the last
conviction for an offense described in this subsection, the
applicant shall be deemed eligible for hire without a waiver

1 for that offense.

2 (a-1) A health care employer or long-term care facility
3 may hire, employ, or retain any individual in a position
4 involving direct care for clients, patients, or residents, or
5 access to the living quarters or the financial, medical, or
6 personal records of ~~clients, patients, or residents,~~ who has
7 been convicted of committing or attempting to commit one or
8 more of the ~~following~~ offenses described in this subsection,
9 within 10 years after the date of conviction, only with a
10 waiver described in Section 40: ~~those offenses defined in~~
11 ~~Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,~~
12 ~~17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,~~
13 ~~24-3.2, or 24-3.3, or subsection (b) of Section 17-32,~~
14 ~~subsection (b) of Section 18-1, or subsection (b) of Section~~
15 ~~20-1, of the Criminal Code of 1961 or the Criminal Code of~~
16 ~~2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card~~
17 ~~and Debit Card Act; or Section 11-9.1A of the Criminal Code of~~
18 ~~1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs~~
19 ~~to Children Act; or (ii) violated Section 50-50 of the Nurse~~
20 ~~Practice Act.~~

21 (1) an offense defined in Section 12-1, 12-2, or
22 12-3.2 or a felony offense described in Section 12-2,
23 12-3.2, 16-1, or 16-25 of the Criminal Code of 1961 or the
24 Criminal Code of 2012; or

25 (2) an offense described in Section 12-3.3, 12-4.5,
26 12-7.4, 16-30, 17-3, 18-1, 18-3, 19-1, 19-3, 19-6, 20-1,

1 or 20-1.1, or subsection (b) of Section 20-1 of the
2 Criminal Code of 1961 or the Criminal Code of 2012.

3 If more than 10 years have passed since the date of the
4 last conviction for an offense described in this subsection,
5 the applicant shall be deemed eligible for hire without a
6 waiver for that offense.

7 A health care employer is not required to retain an
8 individual in a position with duties involving direct care for
9 clients, patients, or residents, and no long-term care
10 facility is required to retain an individual in a position
11 with duties that involve or may involve contact with residents
12 or access to the living quarters or the financial, medical, or
13 personal records of residents, who has been convicted of
14 committing or attempting to commit one or more of the offenses
15 enumerated in this subsection.

16 (a-2) A health care employer or long-term care facility
17 may hire, employ, or retain any individual in a position
18 involving direct care for clients, patients, or residents, or
19 access to the living quarters or the financial, medical, or
20 personal records of residents, who has been convicted of
21 committing or attempting to commit one or more of the offenses
22 described in this subsection, within 25 years of the date of
23 conviction, only with a waiver described in Section 40:
24 Section 12-3.05 or 12-3.3 of the Criminal Code of 1961 or the
25 Criminal Code of 2012. If more than 25 years have passed since
26 the date of the last conviction for the disqualifying offense,

1 the applicant shall be deemed eligible for hire without a
2 waiver for that offense.

3 (b) A health care employer shall not hire, employ, or
4 retain, whether paid or on a volunteer basis, any individual
5 in a position with duties involving direct care of clients,
6 patients, or residents, and no long-term care facility shall
7 knowingly hire, employ, or retain, whether paid or on a
8 volunteer basis, any individual in a position with duties that
9 involve or may involve contact with residents or access to the
10 living quarters or the financial, medical, or personal records
11 of residents, if the health care employer becomes aware that
12 the individual has been convicted in another state of
13 committing or attempting to commit an offense that has the
14 same or similar elements as an offense listed in subsection
15 (a) or (a-1), as verified by court records, records from a
16 state agency, or an FBI criminal history record check, unless
17 the applicant or employee obtains a waiver pursuant to Section
18 40 of this Act. This shall not be construed to mean that a
19 health care employer has an obligation to conduct a criminal
20 history records check in other states in which an employee has
21 resided.

22 (c) A health care employer shall not hire, employ, or
23 retain, whether paid or on a volunteer basis, any individual
24 in a position with duties involving direct care of clients,
25 patients, or residents, who has a finding by the Department of
26 abuse, neglect, misappropriation of property, or theft denoted

1 on the Health Care Worker Registry.

2 (d) A health care employer shall not hire, employ, or
3 retain, whether paid or on a volunteer basis, any individual
4 in a position with duties involving direct care of clients,
5 patients, or residents if the individual has a verified and
6 substantiated finding of abuse, neglect, or financial
7 exploitation, as identified within the Adult Protective
8 Service Registry established under Section 7.5 of the Adult
9 Protective Services Act.

10 (e) A health care employer shall not hire, employ, or
11 retain, whether paid or on a volunteer basis, any individual
12 in a position with duties involving direct care of clients,
13 patients, or residents who has a finding by the Department of
14 Human Services of physical or sexual abuse, financial
15 exploitation, or egregious neglect of an individual denoted on
16 the Health Care Worker Registry.

17 (Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

18 (225 ILCS 46/65)

19 Sec. 65. Health Care Worker Task Force. A Health Care
20 Worker Task Force shall be appointed to study and make
21 recommendations on statutory and regulatory changes to this
22 Act and implementation of this Act.

23 (a) The Task Force shall monitor the status of the
24 implementation of this Act and monitor complaint
25 investigations relating to this Act by the Department on

1 Aging, Department of Public Health, Department of Professional
2 Regulation, and the Department of Human Services to determine
3 the criminal background, if any, of health care workers who
4 have had findings of abuse, theft, or exploitation.

5 (b) The Task Force shall make recommendations concerning
6 modifications to the list of offenses enumerated in Section
7 25, including time limits on all or some of the disqualifying
8 offenses, and any other necessary or desirable changes to the
9 Act.

10 (c) In the event that proposed rules or changes are
11 properly submitted to the Task Force and the Task Force fails
12 to advise the Department within 90 days after receipt of the
13 proposed rules or changes, final action shall be deemed to
14 have been taken by the Task Force concerning the proposed
15 rules or changes.

16 (d) The Task Force shall be composed of the following
17 members, who shall serve without pay:

18 (1) a chairman knowledgeable about health care issues,
19 who shall be appointed by the Governor;

20 (2) the Director of Public Health or his or her
21 designee;

22 (3) the Director of the Illinois State Police or his
23 or her designee;

24 (3.5) the Director of Healthcare and Family Services
25 or his or her designee;

26 (3.6) the Secretary of Human Services or his or her

1 designee;

2 (3.7) the Director of Aging or his or her designee;

3 (4) 2 representatives of health care providers, who
4 shall be appointed by the Governor;

5 (5) 2 representatives of health care employees, who
6 shall be appointed by the Governor;

7 (5.5) a representative of a Community Care homemaker
8 program, who shall be appointed by the Governor;

9 (5.10) 2 individuals with a criminal record who work
10 with a community organization that works with people with
11 criminal records;

12 (5.15) an individual from a legal services agency that
13 represents people with criminal records;

14 (5.20) an individual from an organization that
15 advocates for improved opportunity for people with
16 criminal records;

17 (5.25) a representative from a provider that helps
18 connect people with criminal records with employment;

19 (6) a representative of the general public who has an
20 interest in health care, who shall be appointed by the
21 Governor; and

22 (7) 4 members of the General Assembly, one appointed
23 by the Speaker of the House, one appointed by the House
24 Minority Leader, one appointed by the President of the
25 Senate, and one appointed by the Senate Minority Leader.

26 (e) The Task Force shall meet at least quarterly, and more

1 frequently at the discretion of the chairperson. Task Force
2 members shall serve until a replacement is sworn and
3 qualified. Nine members appointed to the Task Force
4 constitutes a quorum.

5 (f) On or before January 1, 2025, the Task Force shall
6 issue recommendations to the Department of Public Health. In
7 making its recommendations, the Task Force shall (i) examine
8 whether the relevant rules must be amended to reflect changes
9 in State law and (ii) determine whether the waiver procedures
10 are effective in providing opportunity for persons with
11 criminal records to gain employment in health care and
12 long-term care facilities while also meeting the needs of
13 residents of those facilities. The procedures to be examined
14 include the timeframes regarding when an applicant may seek a
15 waiver, the information provided on the health care worker
16 registry, the factors considered by the Department in
17 determining whether to grant a waiver, and the waiver
18 application procedures and materials themselves.

19 (g) Beginning January 1, 2024, the Task Force shall make
20 recommendations to the Department of Public Health regarding
21 connecting people with criminal records to employment with
22 work in the health care industry.

23 (h) On or before January 1 of each year, the Department of
24 Public Health shall report to the Task Force, the Governor,
25 and the General Assembly the following information for the
26 previous fiscal year:

- 1 (1) the number of waiver petitions filed;
- 2 (2) the number of waiver petitions granted;
- 3 (3) the number of waiver petitions denied; and
- 4 (4) the number of individuals with a waiver who are
5 employed by a health care employer or long-term care
6 facility.

7 The information reported under this Section shall be made
8 available to the public at the time it is reported on the
9 official website of the Department of Public Health.

10 (Source: P.A. 102-538, eff. 8-20-21.)

11 Section 10. The Code of Civil Procedure is amended by
12 adding the heading of Article VIII Pt. 30 and Section 8-3001 as
13 follows:

14 (735 ILCS 5/Art. VIII Pt. 30 heading new)

15 Part 30. Waivers under the Health Care Worker
16 Background Check Act

17 (735 ILCS 5/8-3001 new)

18 Sec. 8-3001. Admissibility of evidence of a disqualifying
19 defense under the Health Care Worker Background Check Act.
20 Evidence that an employee (i) has been granted a waiver or
21 similar relief pursuant to the Health Care Worker Background
22 Check Act or (i) has been convicted of a disqualifying
23 offense, as defined under the Health Care Worker Background

1 Check Act, is not admissible for the purpose of proving that an
2 employer subject to the Health Care Worker Background Check
3 Act was negligent or otherwise liable for hiring the employee
4 if the employee has received a waiver or has otherwise been
5 determined eligible for hire pursuant to the Health Care
6 Worker Background Check Act. This Section does not bar
7 admission of such evidence for another lawful purpose,
8 including, but not limited to, impeachment.