



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4501

Introduced 1/31/2024, by Rep. Joyce Mason - Dave Vella

SYNOPSIS AS INTRODUCED:

225 ILCS 10/4.1

from Ch. 23, par. 2214.1

Amends the Child Care Act of 1969. Provides that a criminal background investigation for a person subject to background check shall include specified information. Provides that, notwithstanding any federal law that prohibits conditional employment prior to completed background checks, an individual hired to begin employment who has authorized the required background check may be employed by a child care facility on a conditional basis pending the outcome of the required background check. Provides that the form authorizing the background check shall be submitted to the Department of Children and Family Services. Provides that the individual shall also submit to the Department an attestation, under penalty of perjury, disclosing: (1) any abuse or neglect complaints made against the individual with the child welfare agency of a state other than Illinois in which the individual resided within the 5 years preceding the date of the attestation; and (2) any contact the individual had with a law enforcement agency in connection with the individual's suspected or alleged commission of a crime in a state other than Illinois in which the individual resided within the 5 years preceding the date of the attestation. Provides that a conditional employee shall not be left alone with children outside the visual and auditory supervision of staff until the conditional employee has cleared all required background checks. Defines "persons subject to background check".

LRB103 35927 SPS 66014 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 Child Care Act of 1969 is amended by
5 changing Section 4.1 as follows:

6 (225 ILCS 10/4.1) (from Ch. 23, par. 2214.1)

7 Sec. 4.1. Criminal background investigations.

8 (a) As used in this Section, "person subject to background
9 check" means:

10 (1) an operator of the child care facility;

11 (2) any current and conditional employee of the child
12 care facility;

13 (3) any person who is used to replace or supplement
14 staff;

15 (4) any person who has access to children as defined
16 in 89 Ill. Adm. Code 385.20;

17 (5) any person, including a non-licensed service
18 provider, who provides services that allow unsupervised
19 access to children if the requirement for background
20 checks is a condition of a contract or agreement or is
21 required otherwise under a contract or agreement; and

22 (6) any volunteer who has unsupervised contact with
23 children.

1 "Person subject to background check" does not include an
2 employee of a child care facility that receives funds under
3 Title IV-E of the Social Security Act.

4 (b) The Department shall require that each person subject
5 to background check ~~child care facility license applicant as~~
6 ~~part of the application process, and each employee and~~
7 ~~volunteer of a child care facility or non licensed service~~
8 ~~provider~~, as a condition of employment, authorizes ~~authorize~~
9 an investigation to determine if such person subject to
10 background check ~~applicant, employee, or volunteer~~ has ever
11 been charged with a crime and if so, the disposition of those
12 charges; this authorization shall indicate the scope of the
13 inquiry and the agencies which may be contacted. Upon this
14 authorization, the Director shall request and receive
15 information and assistance from any federal, State or local
16 governmental agency as part of the authorized investigation.
17 Each person subject to background check ~~applicant, employee,~~
18 ~~or volunteer of a child care facility or non licensed service~~
19 ~~provider~~ shall submit the person subject to background check's
20 ~~applicant's, employee's, or volunteer's~~ fingerprints to the
21 Illinois State Police in the form and manner prescribed by the
22 Illinois State Police. These fingerprints shall be checked
23 against the fingerprint records now and hereafter filed in the
24 Illinois State Police and Federal Bureau of Investigation
25 criminal history records databases. The Illinois State Police
26 shall charge a fee for conducting the criminal history records

1 check, which shall be deposited in the State Police Services
2 Fund and shall not exceed the actual cost of the records check.
3 The Illinois State Police shall provide information concerning
4 any criminal charges, and their disposition, now or hereafter
5 filed, against a person subject to background check ~~an~~
6 ~~applicant, employee, or volunteer of a child care facility or~~
7 ~~non-licensed service provider~~ upon request of the Department
8 of Children and Family Services when the request is made in the
9 form and manner required by the Illinois State Police.

10 (c) A criminal background investigation for a person
11 subject to background check under subsection (b) shall
12 include:

13 (1) a Federal Bureau of Investigation fingerprint
14 check using Next Generation Identification;

15 (2) a search of the National Crime Information
16 Center's National Sex Offender Registry; and

17 (3) a search of the following registries,
18 repositories, or databases in this State and each state
19 where the person subject to background check resided
20 during the preceding 5 years:

21 (A) the criminal registry or repository, with the
22 use of fingerprints being:

23 (i) required in this State;

24 (ii) optional in other states;

25 (B) the sex offender registry or repository; and

26 (C) the child abuse and neglect registry and

1 database.

2 (d) Information concerning convictions of a person subject
3 to background check ~~license applicant, employee, or volunteer~~
4 ~~of a child care facility or non-licensed service provider~~
5 investigated under this Section, including the source of the
6 information and any conclusions or recommendations derived
7 from the information, shall be provided, upon request, to such
8 person subject to background check ~~applicant, employee, or~~
9 ~~volunteer of a child care facility or non-licensed service~~
10 ~~provider~~ prior to final action by the Department on the
11 application. State conviction information provided by the
12 Illinois State Police regarding persons subject to background
13 check ~~employees, prospective employees, or volunteers of~~
14 ~~non-licensed service providers and child care facilities~~
15 ~~licensed under this Act~~ shall be provided to the operator of
16 such facility, and, upon request, to the person subject to
17 background check ~~employee, prospective employee, or volunteer~~
18 ~~of a child care facility or non-licensed service provider~~. Any
19 information concerning criminal charges and the disposition of
20 such charges obtained by the Department shall be confidential
21 and may not be transmitted outside the Department, except as
22 required herein, and may not be transmitted to anyone within
23 the Department except as needed for the purpose of evaluating
24 a person subject to background check ~~an application or an~~
25 ~~employee or volunteer of a child care facility or non-licensed~~
26 ~~service provider~~. Only information and standards which bear a

1 reasonable and rational relation to the performance of a child
2 care facility shall be used by the Department or any licensee.
3 Any employee of the Department of Children and Family
4 Services, Illinois State Police, or a child care facility
5 receiving confidential information under this Section who
6 gives or causes to be given any confidential information
7 concerning any criminal convictions of a person subject to
8 background check ~~an applicant, employee, or volunteer of a~~
9 ~~child care facility or non-licensed service provider~~, shall be
10 guilty of a Class A misdemeanor unless release of such
11 information is authorized by this Section.

12 (e) Notwithstanding any federal law that prohibits
13 conditional employment prior to completed background checks,
14 an individual hired to begin employment who has authorized the
15 background check required by this Section may be employed by a
16 child care facility on a conditional basis pending the outcome
17 of the required background check. The form authorizing the
18 background check shall be submitted to the Department. The
19 individual shall also submit to the Department an attestation,
20 under penalty of perjury, disclosing: (1) any abuse or neglect
21 complaints made against the individual with the child welfare
22 agency of a state other than Illinois in which the individual
23 resided within the 5 years preceding the date of the
24 attestation; and (2) any contact the individual had with a law
25 enforcement agency in connection with the individual's
26 suspected or alleged commission of a crime in a state other

1 than Illinois in which the individual resided within the 5
2 years preceding the date of the attestation. A conditional
3 employee shall not be left alone with children outside the
4 visual and auditory supervision of staff until the conditional
5 employee has cleared all required background checks. ~~A child~~
6 ~~care facility may hire, on a probationary basis, any employee~~
7 ~~or volunteer of a child care facility or non licensed service~~
8 ~~provider authorizing a criminal background investigation under~~
9 ~~this Section, pending the result of such investigation.~~
10 ~~Employees and volunteers of a child care facility or~~
11 ~~non licensed service provider shall be notified prior to~~
12 ~~hiring that such employment may be terminated on the basis of~~
13 ~~criminal background information obtained by the facility.~~

14 (Source: P.A. 102-538, eff. 8-20-21; 103-22, eff. 8-8-23.)