



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4785

Introduced 1/18/2006, by Rep. James D. Brosnahan

#### SYNOPSIS AS INTRODUCED:

|                          |                                 |
|--------------------------|---------------------------------|
| 55 ILCS 5/3-3013         | from Ch. 34, par. 3-3013        |
| 55 ILCS 5/3-3020         | from Ch. 34, par. 3-3020        |
| 210 ILCS 28/85 rep.      |                                 |
| 210 ILCS 45/2-110        | from Ch. 111 1/2, par. 4152-110 |
| 210 ILCS 45/2-201.5      |                                 |
| 210 ILCS 45/2-201.6 new  |                                 |
| 210 ILCS 45/2-208        | from Ch. 111 1/2, par. 4152-208 |
| 210 ILCS 45/2-216        |                                 |
| 210 ILCS 45/3-202.3 rep. |                                 |
| 210 ILCS 45/3-202.4 rep. |                                 |
| 730 ILCS 110/12          | from Ch. 38, par. 204-4         |

Amends the Counties Code, the Abuse Prevention Review Team Act, the Nursing Home Care Act, and the Probation and Probation Officers Act. Provides that all deaths in licensed long-term care facilities and all deaths in hospitals in cases in which the deceased had been transferred to the hospital from a long-term care facility within the preceding 5 days must be reported to the coroner of the county in which the facility is located; requires that the coroner be notified immediately (instead of promptly) in the case of certain deaths. Repeals a provision repealing the Abuse Prevention Review Team Act on July 1, 2006. Requires a nursing home to request a criminal history background check on all residents; requires a nursing home to fax a resident's name and criminal history information to the Department of Public Health if the resident is an identified offender. Requires the Department of Public Health to conduct an Identified Offender Risk Analysis with respect to a nursing home resident who is an identified offender. Authorizes the Director of Public Health to waive certain requirements concerning notice to nursing home residents, employees, and visitors that an identified offender is a resident of the nursing home. Makes other changes. Effective immediately.

LRB094 18853 DRJ 54282 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 Counties Code is amended by changing  
5 Sections 3-3013 and 3-3020 as follows:

6 (55 ILCS 5/3-3013) (from Ch. 34, par. 3-3013)

7 Sec. 3-3013. Preliminary investigations; blood and urine  
8 analysis; summoning jury. Every coroner, whenever, as soon as  
9 he knows or is informed that the dead body of any person is  
10 found, or lying within his county, whose death is suspected of  
11 being:

12 (a) A sudden or violent death, whether apparently  
13 suicidal, homicidal or accidental, including but not  
14 limited to deaths apparently caused or contributed to by  
15 thermal, traumatic, chemical, electrical or radiational  
16 injury, or a complication of any of them, or by drowning or  
17 suffocation, or as a result of domestic violence as defined  
18 in the Illinois Domestic Violence Act of 1986;

19 (b) A maternal or fetal death due to abortion, or any  
20 death due to a sex crime or a crime against nature;

21 (c) A death where the circumstances are suspicious,  
22 obscure, mysterious or otherwise unexplained or where, in  
23 the written opinion of the attending physician, the cause  
24 of death is not determined;

25 (d) A death where addiction to alcohol or to any drug  
26 may have been a contributory cause; or

27 (e) A death where the decedent was not attended by a  
28 licensed physician;

29 shall go to the place where the dead body is, and take charge  
30 of the same and shall make a preliminary investigation into the  
31 circumstances of the death. In the case of death without  
32 attendance by a licensed physician the body may be moved with

1 the coroner's consent from the place of death to a mortuary in  
2 the same county. Coroners in their discretion shall notify such  
3 physician as is designated in accordance with Section 3-3014 to  
4 attempt to ascertain the cause of death, either by autopsy or  
5 otherwise.

6 In cases of accidental death involving a motor vehicle in  
7 which the decedent was (1) the operator or a suspected operator  
8 of a motor vehicle, or (2) a pedestrian 16 years of age or  
9 older, the coroner shall require that a blood specimen of at  
10 least 30 cc., and if medically possible a urine specimen of at  
11 least 30 cc. or as much as possible up to 30 cc., be withdrawn  
12 from the body of the decedent in a timely fashion after the  
13 accident causing his death, by such physician as has been  
14 designated in accordance with Section 3-3014, or by the coroner  
15 or deputy coroner or a qualified person designated by such  
16 physician, coroner, or deputy coroner. If the county does not  
17 maintain laboratory facilities for making such analysis, the  
18 blood and urine so drawn shall be sent to the Department of  
19 State Police or any other accredited or State-certified  
20 laboratory for analysis of the alcohol, carbon monoxide, and  
21 dangerous or narcotic drug content of such blood and urine  
22 specimens. Each specimen submitted shall be accompanied by  
23 pertinent information concerning the decedent upon a form  
24 prescribed by such laboratory. Any person drawing blood and  
25 urine and any person making any examination of the blood and  
26 urine under the terms of this Division shall be immune from all  
27 liability, civil or criminal, that might otherwise be incurred  
28 or imposed.

29 In all other cases coming within the jurisdiction of the  
30 coroner and referred to in subparagraphs (a) through (e) above,  
31 blood, and whenever possible, urine samples shall be analyzed  
32 for the presence of alcohol and other drugs. When the coroner  
33 suspects that drugs may have been involved in the death, either  
34 directly or indirectly, a toxicological examination shall be  
35 performed which may include analyses of blood, urine, bile,  
36 gastric contents and other tissues. When the coroner suspects a

1 death is due to toxic substances, other than drugs, the coroner  
2 shall consult with the toxicologist prior to collection of  
3 samples. Information submitted to the toxicologist shall  
4 include information as to height, weight, age, sex and race of  
5 the decedent as well as medical history, medications used by  
6 and the manner of death of decedent.

7 Except in counties that have a jury commission, in cases of  
8 apparent suicide, homicide, or accidental death or in other  
9 cases, within the discretion of the coroner, the coroner shall  
10 summon 8 persons of lawful age from those persons drawn for  
11 petit jurors in the county. The summons shall command these  
12 persons to present themselves personally at such a place and  
13 time as the coroner shall determine, and may be in any form  
14 which the coroner shall determine and may incorporate any  
15 reasonable form of request for acknowledgement which the  
16 coroner deems practical and provides a reliable proof of  
17 service. The summons may be served by first class mail. From  
18 the 8 persons so summoned, the coroner shall select 6 to serve  
19 as the jury for the inquest. Inquests may be continued from  
20 time to time, as the coroner may deem necessary. The 6 jurors  
21 selected in a given case may view the body of the deceased. If  
22 at any continuation of an inquest one or more of the original  
23 jurors shall be unable to continue to serve, the coroner shall  
24 fill the vacancy or vacancies. A juror serving pursuant to this  
25 paragraph shall receive compensation from the county at the  
26 same rate as the rate of compensation that is paid to petit or  
27 grand jurors in the county. The coroner shall furnish to each  
28 juror without fee at the time of his discharge a certificate of  
29 the number of days in attendance at an inquest, and, upon being  
30 presented with such certificate, the county treasurer shall pay  
31 to the juror the sum provided for his services.

32 In counties which have a jury commission, in cases of  
33 apparent suicide or homicide or of accidental death, the  
34 coroner shall, and in other cases in his discretion may,  
35 conduct an inquest. The jury commission shall provide at least  
36 8 jurors to the coroner, from whom the coroner shall select any

1 6 to serve as the jury for the inquest. Inquests may be  
2 continued from time to time as the coroner may deem necessary.  
3 The 6 jurors originally chosen in a given case may view the  
4 body of the deceased. If at any continuation of an inquest one  
5 or more of the 6 jurors originally chosen shall be unable to  
6 continue to serve, the coroner shall fill the vacancy or  
7 vacancies. At the coroner's discretion, additional jurors to  
8 fill such vacancies shall be supplied by the jury commission. A  
9 juror serving pursuant to this paragraph in such county shall  
10 receive compensation from the county at the same rate as the  
11 rate of compensation that is paid to petit or grand jurors in  
12 the county.

13 In addition, in every case in which domestic violence is  
14 determined to be a contributing factor in a death, the coroner  
15 shall report the death to the Department of State Police.

16 All deaths in State institutions, all deaths in licensed  
17 long-term care facilities, all deaths in hospitals in cases in  
18 which the deceased had been transferred to the hospital from a  
19 long-term care facility within the preceding 5 days, and all  
20 deaths of wards of the State in private care facilities or in  
21 programs funded by the Department of Human Services under its  
22 powers relating to mental health and developmental  
23 disabilities or alcoholism and substance abuse or funded by the  
24 Department of Children and Family Services shall be reported to  
25 the coroner of the county in which the facility is located. If  
26 the coroner has reason to believe that an investigation is  
27 needed to determine whether the death was caused by  
28 maltreatment or negligent care of the ward of the State, the  
29 coroner may conduct a preliminary investigation of the  
30 circumstances of such death as in cases of death under  
31 circumstances set forth in paragraphs (a) through (e) of this  
32 Section.

33 (Source: P.A. 93-1005, eff. 1-1-05.)

34 (55 ILCS 5/3-3020) (from Ch. 34, par. 3-3020)

35 Sec. 3-3020. Coroner to be notified; violation. Every law

1 enforcement official, funeral director, ambulance attendant,  
2 hospital director or administrator, long-term care facility  
3 administrator or employee, or person having custody of the body  
4 of a deceased person, where the death is one subject to  
5 investigation under Section 3-3013, and any physician in  
6 attendance upon such a decedent at the time of his death, shall  
7 notify the coroner immediately ~~promptly~~. Any such person  
8 failing to so notify the coroner promptly shall be guilty of a  
9 Class A misdemeanor, unless such person has reasonable cause to  
10 believe that the coroner had already been so notified.

11 (Source: P.A. 86-962.)

12 (210 ILCS 28/85 rep.)

13 Section 10. The Abuse Prevention Review Team Act is amended  
14 by repealing Section 85.

15 Section 15. The Nursing Home Care Act is amended by  
16 changing Sections 2-110, 2-201.5, 2-208, and 2-216 and by  
17 adding Section 2-201.6 as follows:

18 (210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

19 Sec. 2-110. (a) Any employee or agent of a public agency,  
20 any representative of a community legal services program or any  
21 other member of the general public shall be permitted access at  
22 reasonable hours to any individual resident of any facility,  
23 but only if there is neither a commercial purpose nor effect to  
24 such access and if the purpose is to do any of the following:

25 (1) Visit, talk with and make personal, social and  
26 legal services available to all residents;

27 (2) Inform residents of their rights and entitlements  
28 and their corresponding obligations, under federal and  
29 State laws, by means of educational materials and  
30 discussions in groups and with individual residents;

31 (3) Assist residents in asserting their legal rights  
32 regarding claims for public assistance, medical assistance  
33 and social security benefits, as well as in all other

1 matters in which residents are aggrieved. Assistance may  
2 include counseling and litigation; or

3 (4) Engage in other methods of asserting, advising and  
4 representing residents so as to extend to them full  
5 enjoyment of their rights.

6 (a-5) If a resident of a licensed facility is an identified  
7 offender, any federal, State, or local law enforcement officer  
8 or county probation officer shall be permitted reasonable  
9 access to the individual resident to verify compliance with the  
10 requirements of the Sex Offender Registration Act, to verify  
11 compliance with the requirements of Public Act 94-163 and this  
12 amendatory Act of the 94th General Assembly, or to verify  
13 compliance with applicable terms of probation, parole, or  
14 mandatory supervised release.

15 (b) All persons entering a facility under this Section  
16 shall promptly notify appropriate facility personnel of their  
17 presence. They shall, upon request, produce identification to  
18 establish their identity. No such person shall enter the  
19 immediate living area of any resident without first identifying  
20 himself and then receiving permission from the resident to  
21 enter. The rights of other residents present in the room shall  
22 be respected. A resident may terminate at any time a visit by a  
23 person having access to the resident's living area under this  
24 Section.

25 (c) This Section shall not limit the power of the  
26 Department or other public agency otherwise permitted or  
27 required by law to enter and inspect a facility.

28 (d) Notwithstanding paragraph (a) of this Section, the  
29 administrator of a facility may refuse access to the facility  
30 to any person if the presence of that person in the facility  
31 would be injurious to the health and safety of a resident or  
32 would threaten the security of the property of a resident or  
33 the facility, or if the person seeks access to the facility for  
34 commercial purposes. Any person refused access to a facility  
35 may within 10 days request a hearing under Section 3-703. In  
36 that proceeding, the burden of proof as to the right of the

1 facility to refuse access under this Section shall be on the  
2 facility.

3 (Source: P.A. 94-163, eff. 7-11-05.)

4 (210 ILCS 45/2-201.5)

5 Sec. 2-201.5. Screening prior to admission.

6 (a) All persons age 18 or older seeking admission to a  
7 nursing facility must be screened to determine the need for  
8 nursing facility services prior to being admitted, regardless  
9 of income, assets, or funding source. In addition, any person  
10 who seeks to become eligible for medical assistance from the  
11 Medical Assistance Program under the Illinois Public Aid Code  
12 to pay for long term care services while residing in a facility  
13 must be screened prior to receiving those benefits. Screening  
14 for nursing facility services shall be administered through  
15 procedures established by administrative rule. Screening may  
16 be done by agencies other than the Department as established by  
17 administrative rule. This Section applies on and after July 1,  
18 1996.

19 (b) In addition to the screening required by subsection  
20 (a), a facility shall, within 24 hours after admission, request  
21 a criminal history background check pursuant to the Uniform  
22 Conviction Information Act for all persons age 18 or older  
23 seeking admission to the facility. The facility shall, within  
24 60 days after the effective date of this amendatory Act of the  
25 94th General Assembly, request a criminal history background  
26 check pursuant to the Uniform Conviction Information Act for  
27 all persons who are residents of the facility on the effective  
28 date of this amendatory Act of the 94th General Assembly. The  
29 facility shall review the results of the criminal history  
30 background checks immediately upon receipt thereof.

31 (c) If the results of a resident's criminal history  
32 background check reveal that the resident is an identified  
33 offender as defined in Section 1-114.01, the facility shall  
34 immediately fax the resident's name and criminal history  
35 information to the Illinois Department of Public Health, which



1 shall conduct an Identified Offender Risk Analysis pursuant to  
2 Section 2-201.6. ~~identified offenders who seek admission to a~~  
3 ~~licensed facility shall not be admitted unless the licensed~~  
4 ~~facility complies with the requirements of the Department's~~  
5 ~~administrative rules adopted pursuant to Section 3-202.3.~~

6 (Source: P.A. 94-163, eff. 7-11-05.)

7 (210 ILCS 45/2-201.6 new)

8 Sec. 2-201.6. Identified Offender Risk Analysis.

9 (a) The Department shall immediately commence an  
10 Identified Offender Risk Analysis when it receives  
11 information, through the criminal history background check  
12 required pursuant to subsection (b) of Section 2-201.5 or  
13 through any other means, that a resident of a facility is an  
14 identified offender.

15 (b) The Department shall complete the Identified Offender  
16 Risk Analysis within 10 days of receiving notice from the  
17 facility under subsection (a).

18 (c) The Identified Offender Risk Analysis shall include,  
19 but not be limited to, all of the following:

20 (1) Consultation with the identified offender's  
21 assigned parole agent or probation officer, if applicable.

22 (2) Consultation with the convicting prosecutor's  
23 office.

24 (3) A review of the statement of facts, police reports,  
25 and victim impact statements, if available.

26 (4) Consideration of the entire criminal history of the  
27 offender, including the date of the identified offender's  
28 last conviction relative to the date of admission to a  
29 long-term care facility.

30 (5) If the identified offender is a convicted or  
31 registered sex offender, a review of any and all sex  
32 offender evaluations conducted on that offender. If there  
33 is no sex offender evaluation available, the Department  
34 shall provide for a sex offender evaluation to be conducted  
35 on the identified offender. All evaluations conducted on

1 convicted or registered sex offenders under this Act shall  
2 be conducted by sex offender evaluators approved by the Sex  
3 Offender Management Board.

4 (d) The Department shall prepare an Identified Offender  
5 Risk Analysis Report based on the analysis conducted pursuant  
6 to subsection (c). The Report shall include a summary of the  
7 Risk Analysis and shall detail whether and to what extent the  
8 identified offender's criminal history necessitates the  
9 implementation of security measures within the long-term care  
10 facility. If the identified offender is a convicted or  
11 registered sex offender or if the Department's Identified  
12 Offender Risk Analysis reveals that the identified offender  
13 poses a significant risk of harm to others within the facility,  
14 the offender shall be required to have his or her own room  
15 within the facility.

16 (e) The Identified Offender Risk Analysis Report shall  
17 promptly be provided to the following:

18 (1) The long-term care facility within which the  
19 identified offender resides.

20 (2) The Chief of Police of the municipality in which  
21 the facility is located.

22 (3) The State of Illinois Long Term Care Ombudsman.

23 (f) The facility shall incorporate the Identified Offender  
24 Risk Analysis Report into the identified offender's care plan  
25 created pursuant to 42 CFR 483.20.

26 (g) If, based on the Identified Offender Risk Analysis  
27 Report, a facility determines that it cannot manage the  
28 offender safely within the facility, it shall immediately  
29 contact the Illinois Department of Public Health for the  
30 purpose of locating an alternative, appropriate facility  
31 within Illinois.

32 (210 ILCS 45/2-208) (from Ch. 111 1/2, par. 4152-208)

33 Sec. 2-208. A facility shall immediately notify the  
34 resident's next of kin, representative and physician of the  
35 resident's death or when the resident's death appears to be

1 imminent. A facility shall notify the local coroner or medical  
2 examiner immediately upon the death of any resident of the  
3 facility prior to transferring the deceased resident to a  
4 funeral home.

5 (Source: P.A. 81-223.)

6 (210 ILCS 45/2-216)

7 Sec. 2-216. Notification of identified offenders.

8 (a) If identified offenders are residents of the licensed  
9 facility, the licensed facility shall notify every resident or  
10 resident's guardian in writing that such offenders are  
11 residents of the licensed facility. The licensed facility shall  
12 also provide notice to its employees and to visitors to the  
13 facility that identified offenders are residents.

14 (b) If the Director of Public Health determines, based on a  
15 review of the Identified Offender Risk Analysis Report, that  
16 the identified offender does not, because of his or her  
17 criminal history, pose a risk to other facility residents, the  
18 Director may issue a waiver of the notice requirements under  
19 subsection (a). The Director may not grant a waiver if the  
20 identified offender is a convicted or registered sex offender,  
21 was convicted of the offenses set forth in 77 Ill. Adm. Code  
22 955.270(e), or was convicted of any of the following offenses  
23 under the Criminal Code of 1961: armed violence, ritualized  
24 abuse of a child, felony aggravated assault, or felony domestic  
25 battery.

26 All waivers granted under this subsection shall be in  
27 writing with copies provided to the following:

28 (1) The administrator of the long-term care facility  
29 within which the identified offender resides.

30 (2) The Chief of Police of the municipality in which  
31 the facility is located.

32 (3) The State of Illinois Long Term Care Ombudsman.

33 (Source: P.A. 94-163, eff. 7-11-05.)

34 (210 ILCS 45/3-202.3 rep.)

1 (210 ILCS 45/3-202.4 rep.)

2 Section 16. The Nursing Home Care Act is amended by  
3 repealing Sections 3-202.3 and 3-202.4.

4 Section 20. The Probation and Probation Officers Act is  
5 amended by changing Section 12 as follows:

6 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

7 Sec. 12. The duties of probation officers shall be:

8 (1) To investigate as required by Section 5-3-1 of the  
9 "Unified Code of Corrections", approved July 26, 1972, as  
10 amended, the case of any person to be placed on probation. Full  
11 opportunity shall be afforded a probation officer to confer  
12 with the person under investigation when such person is in  
13 custody.

14 (2) To notify the court of any previous conviction for  
15 crime or previous probation of any defendant invoking the  
16 provisions of this Act.

17 (3) All reports and notifications required in this Act to  
18 be made by probation officers shall be in writing and shall be  
19 filed by the clerk in the respective cases.

20 (4) To preserve complete and accurate records of cases  
21 investigated, including a description of the person  
22 investigated, the action of the court with respect to his case  
23 and his probation, the subsequent history of such person, if he  
24 becomes a probationer, during the continuance of his probation,  
25 which records shall be open to inspection by any judge or by  
26 any probation officer pursuant to order of court, but shall not  
27 be a public record, and its contents shall not be divulged  
28 otherwise than as above provided, except upon order of court.

29 (5) To take charge of and watch over all persons placed on  
30 probation under such regulations and for such terms as may be  
31 prescribed by the court, and giving to each probationer full  
32 instructions as to the terms of his release upon probation and  
33 requiring from him such periodical reports as shall keep the  
34 officer informed as to his conduct.

1           (6) To develop and operate programs of reasonable public or  
2 community service for any persons ordered by the court to  
3 perform public or community service, providing, however, that  
4 no probation officer or any employee of a probation office  
5 acting in the course of his official duties shall be liable for  
6 any tortious acts of any person performing public or community  
7 service except for wilful misconduct or gross negligence on the  
8 part of the probation officer or employee.

9           (7) When any person on probation removes from the county  
10 where his offense was committed, it shall be the duty of the  
11 officer under whose care he was placed to report the facts to  
12 the probation officer in the county to which the probationer  
13 has removed; and it shall thereupon become the duty of such  
14 probation officer to take charge of and watch over said  
15 probationer the same as if the case originated in that county;  
16 and for that purpose he shall have the same power and authority  
17 over said probationer as if he had been originally placed in  
18 said officer's charge; and such officer shall be required to  
19 report in writing every 6 months, or more frequently upon  
20 request the results of his supervision to the probation officer  
21 in whose charge the said probationer was originally placed by  
22 the court.

23           (8) To authorize travel permits to individuals under their  
24 supervision unless otherwise ordered by the court.

25           (9) To perform such other duties as are provided for in  
26 this act or by rules of court and such incidental duties as may  
27 be implied from those expressly required.

28           (10) To send written notification to a public housing  
29 agency if a person on probation for a felony who is under the  
30 supervision of the probation officer informs the probation  
31 officer that he or she has resided, resides, or will reside at  
32 an address that is a housing facility owned, managed, operated,  
33 or leased by that public housing agency.

34           (11) If a person on probation for a felony offense who is  
35 under the supervision of the probation officer becomes a  
36 resident of a facility licensed or regulated by the Department

1 of Public Health, the Illinois Department of Public Aid, or  
2 Illinois Department of Human Services, the probation officer  
3 shall within 3 days of the person becoming a resident, notify  
4 the licensing or regulating Department and licensed or  
5 regulated facility and shall provide the licensed or regulated  
6 facility and licensing or regulating Department with copies of  
7 the following:

8 (a) (blank) ~~pre sentence investigation reports or~~  
9 ~~social investigation reports;~~

10 (b) any applicable probation orders and corresponding  
11 compliance plans;

12 (c) the name and contact information for the assigned  
13 probation officer.

14 (Source: P.A. 94-163, eff. 7-11-05.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.