



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB4507

by Rep. Dave Winters

#### SYNOPSIS AS INTRODUCED:

225 ILCS 10/4.2

from Ch. 23, par. 2214.2

Amends the Child Care Act of 1969. Provides for immunity from liability for child care facility licensees that fail to hire or retain an applicant or employee who has been convicted of committing or attempting to commit a certain enumerated offense, except in certain cases of suspension. Provides that no child care facility licensee shall be chargeable for any benefit charges that result from the payment of unemployment benefits to any claimant whose employment separation occurred because the claimant's criminal background included a certain enumerated offense or as a result of the claimant violating a policy that the employer was required to maintain pursuant to the Drug Free Workplace Act. Effective immediately.

LRB095 18532 RAS 44618 b

FISCAL NOTE ACT  
MAY APPLY

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 5. The Child Care Act of 1969 is amended by  
5 changing Section 4.2 as follows:

6 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

7 Sec. 4.2. (a) No applicant may receive a license from the  
8 Department and no person may be employed by a licensed child  
9 care facility who refuses to authorize an investigation as  
10 required by Section 4.1.

11 (b) In addition to the other provisions of this Section, no  
12 applicant may receive a license from the Department and no  
13 person may be employed by a child care facility licensed by the  
14 Department who has been declared a sexually dangerous person  
15 under "An Act in relation to sexually dangerous persons, and  
16 providing for their commitment, detention and supervision",  
17 approved July 6, 1938, as amended, or convicted of committing  
18 or attempting to commit any of the following offenses  
19 stipulated under the Criminal Code of 1961:

20 (1) murder;

21 (1.1) solicitation of murder;

22 (1.2) solicitation of murder for hire;

23 (1.3) intentional homicide of an unborn child;

- 1 (1.4) voluntary manslaughter of an unborn child;
- 2 (1.5) involuntary manslaughter;
- 3 (1.6) reckless homicide;
- 4 (1.7) concealment of a homicidal death;
- 5 (1.8) involuntary manslaughter of an unborn child;
- 6 (1.9) reckless homicide of an unborn child;
- 7 (1.10) drug-induced homicide;
- 8 (2) a sex offense under Article 11, except offenses
- 9 described in Sections 11-7, 11-8, 11-12, and 11-13;
- 10 (3) kidnapping;
- 11 (3.1) aggravated unlawful restraint;
- 12 (3.2) forcible detention;
- 13 (3.3) harboring a runaway;
- 14 (3.4) aiding and abetting child abduction;
- 15 (4) aggravated kidnapping;
- 16 (5) child abduction;
- 17 (6) aggravated battery of a child;
- 18 (7) criminal sexual assault;
- 19 (8) aggravated criminal sexual assault;
- 20 (8.1) predatory criminal sexual assault of a child;
- 21 (9) criminal sexual abuse;
- 22 (10) aggravated sexual abuse;
- 23 (11) heinous battery;
- 24 (12) aggravated battery with a firearm;
- 25 (13) tampering with food, drugs, or cosmetics;
- 26 (14) drug induced infliction of great bodily harm;

- 1 (15) hate crime;
- 2 (16) stalking;
- 3 (17) aggravated stalking;
- 4 (18) threatening public officials;
- 5 (19) home invasion;
- 6 (20) vehicular invasion;
- 7 (21) criminal transmission of HIV;
- 8 (22) criminal abuse or neglect of an elderly or
- 9 disabled person;
- 10 (23) child abandonment;
- 11 (24) endangering the life or health of a child;
- 12 (25) ritual mutilation;
- 13 (26) ritualized abuse of a child;
- 14 (27) an offense in any other jurisdiction the elements
- 15 of which are similar and bear a substantial relationship to
- 16 any of the foregoing offenses.

17 (b-1) In addition to the other provisions of this Section,  
18 beginning January 1, 2004, no new applicant and, on the date of  
19 licensure renewal, no current licensee may operate or receive a  
20 license from the Department to operate, no person may be  
21 employed by, and no adult person may reside in a child care  
22 facility licensed by the Department who has been convicted of  
23 committing or attempting to commit any of the following  
24 offenses or an offense in any other jurisdiction the elements  
25 of which are similar and bear a substantial relationship to any  
26 of the following offenses:

## 1 (I) BODILY HARM

2 (1) Felony aggravated assault.

3 (2) Vehicular endangerment.

4 (3) Felony domestic battery.

5 (4) Aggravated battery.

6 (5) Heinous battery.

7 (6) Aggravated battery with a firearm.

8 (7) Aggravated battery of an unborn child.

9 (8) Aggravated battery of a senior citizen.

10 (9) Intimidation.

11 (10) Compelling organization membership of persons.

12 (11) Abuse and gross neglect of a long term care  
13 facility resident.

14 (12) Felony violation of an order of protection.

## 15 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

16 (1) Felony unlawful use of weapons.

17 (2) Aggravated discharge of a firearm.

18 (3) Reckless discharge of a firearm.

19 (4) Unlawful use of metal piercing bullets.

20 (5) Unlawful sale or delivery of firearms on the  
21 premises of any school.

22 (6) Disarming a police officer.

- 1 (7) Obstructing justice.
- 2 (8) Concealing or aiding a fugitive.
- 3 (9) Armed violence.
- 4 (10) Felony contributing to the criminal delinquency
- 5 of a juvenile.

6 (III) DRUG OFFENSES

- 7 (1) Possession of more than 30 grams of cannabis.
- 8 (2) Manufacture of more than 10 grams of cannabis.
- 9 (3) Cannabis trafficking.
- 10 (4) Delivery of cannabis on school grounds.
- 11 (5) Unauthorized production of more than 5 cannabis
- 12 sativa plants.
- 13 (6) Calculated criminal cannabis conspiracy.
- 14 (7) Unauthorized manufacture or delivery of controlled
- 15 substances.
- 16 (8) Controlled substance trafficking.
- 17 (9) Manufacture, distribution, or advertisement of
- 18 look-alike substances.
- 19 (10) Calculated criminal drug conspiracy.
- 20 (11) Street gang criminal drug conspiracy.
- 21 (12) Permitting unlawful use of a building.
- 22 (13) Delivery of controlled, counterfeit, or
- 23 look-alike substances to persons under age 18, or at truck
- 24 stops, rest stops, or safety rest areas, or on school

1 property.

2 (14) Using, engaging, or employing persons under 18 to  
3 deliver controlled, counterfeit, or look-alike substances.

4 (15) Delivery of controlled substances.

5 (16) Sale or delivery of drug paraphernalia.

6 (17) Felony possession, sale, or exchange of  
7 instruments adapted for use of a controlled substance,  
8 methamphetamine, or cannabis by subcutaneous injection.

9 (18) Felony possession of a controlled substance.

10 (19) Any violation of the Methamphetamine Control and  
11 Community Protection Act.

12 (b-2) For child care facilities other than foster family  
13 homes, the Department may issue a new child care facility  
14 license to or renew the existing child care facility license of  
15 an applicant, a person employed by a child care facility, or an  
16 applicant who has an adult residing in a home child care  
17 facility who was convicted of an offense described in  
18 subsection (b-1), provided that all of the following  
19 requirements are met:

20 (1) The relevant criminal offense occurred more than 5  
21 years prior to the date of application or renewal, except  
22 for drug offenses. The relevant drug offense must have  
23 occurred more than 10 years prior to the date of  
24 application or renewal, unless the applicant passed a drug  
25 test, arranged and paid for by the child care facility, no  
26 less than 5 years after the offense.

1           (2) The Department must conduct a background check and  
2           assess all convictions and recommendations of the child  
3           care facility to determine if waiver shall apply in  
4           accordance with Department administrative rules and  
5           procedures.

6           (3) The applicant meets all other requirements and  
7           qualifications to be licensed as the pertinent type of  
8           child care facility under this Act and the Department's  
9           administrative rules.

10          (b-5) A child care facility licensee shall not be liable  
11          for the failure to hire or to retain an applicant or employee  
12          who has been convicted of committing or attempting to commit  
13          one or more of the offenses enumerated in this Section.  
14          However, if an employee is suspended from employment based on  
15          the results of a criminal background check conducted under  
16          Section 4.1 of this Act and the results prompting the  
17          suspension are subsequently found to be inaccurate, the  
18          employee is entitled to recover backpay from his or her child  
19          care facility employer for the suspension period, provided that  
20          the employer is the cause of the inaccuracy. The Department is  
21          not liable for any hiring decisions, suspensions, or  
22          terminations.

23          No child care facility licensee shall be chargeable for any  
24          benefit charges that result from the payment of unemployment  
25          benefits to any claimant when the claimant's separation from  
26          that employer occurred because the claimant's criminal



1 background included an offense enumerated in this Section, or  
2 the claimant's separation from that child care facility  
3 employer occurred as a result of the claimant violating a  
4 policy that the employer was required to maintain pursuant to  
5 the Drug Free Workplace Act.

6 (c) In addition to the other provisions of this Section, no  
7 applicant may receive a license from the Department to operate  
8 a foster family home, and no adult person may reside in a  
9 foster family home licensed by the Department, who has been  
10 convicted of committing or attempting to commit any of the  
11 following offenses stipulated under the Criminal Code of 1961,  
12 the Cannabis Control Act, the Methamphetamine Control and  
13 Community Protection Act, and the Illinois Controlled  
14 Substances Act:

15 (I) OFFENSES DIRECTED AGAINST THE PERSON

16 (A) KIDNAPPING AND RELATED OFFENSES

17 (1) Unlawful restraint.

18 (B) BODILY HARM

19 (2) Felony aggravated assault.

20 (3) Vehicular endangerment.

21 (4) Felony domestic battery.

22 (5) Aggravated battery.

23 (6) Heinous battery.

- 1 (7) Aggravated battery with a firearm.
- 2 (8) Aggravated battery of an unborn child.
- 3 (9) Aggravated battery of a senior citizen.
- 4 (10) Intimidation.
- 5 (11) Compelling organization membership of persons.
- 6 (12) Abuse and gross neglect of a long term care
- 7 facility resident.
- 8 (13) Felony violation of an order of protection.

9 (II) OFFENSES DIRECTED AGAINST PROPERTY

- 10 (14) Felony theft.
- 11 (15) Robbery.
- 12 (16) Armed robbery.
- 13 (17) Aggravated robbery.
- 14 (18) Vehicular hijacking.
- 15 (19) Aggravated vehicular hijacking.
- 16 (20) Burglary.
- 17 (21) Possession of burglary tools.
- 18 (22) Residential burglary.
- 19 (23) Criminal fortification of a residence or
- 20 building.
- 21 (24) Arson.
- 22 (25) Aggravated arson.
- 23 (26) Possession of explosive or explosive incendiary
- 24 devices.

1 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

2 (27) Felony unlawful use of weapons.

3 (28) Aggravated discharge of a firearm.

4 (29) Reckless discharge of a firearm.

5 (30) Unlawful use of metal piercing bullets.

6 (31) Unlawful sale or delivery of firearms on the  
7 premises of any school.

8 (32) Disarming a police officer.

9 (33) Obstructing justice.

10 (34) Concealing or aiding a fugitive.

11 (35) Armed violence.

12 (36) Felony contributing to the criminal delinquency  
13 of a juvenile.

14 (IV) DRUG OFFENSES

15 (37) Possession of more than 30 grams of cannabis.

16 (38) Manufacture of more than 10 grams of cannabis.

17 (39) Cannabis trafficking.

18 (40) Delivery of cannabis on school grounds.

19 (41) Unauthorized production of more than 5 cannabis  
20 sativa plants.

21 (42) Calculated criminal cannabis conspiracy.

22 (43) Unauthorized manufacture or delivery of

1 controlled substances.

2 (44) Controlled substance trafficking.

3 (45) Manufacture, distribution, or advertisement of  
4 look-alike substances.

5 (46) Calculated criminal drug conspiracy.

6 (46.5) Streetgang criminal drug conspiracy.

7 (47) Permitting unlawful use of a building.

8 (48) Delivery of controlled, counterfeit, or  
9 look-alike substances to persons under age 18, or at truck  
10 stops, rest stops, or safety rest areas, or on school  
11 property.

12 (49) Using, engaging, or employing persons under 18 to  
13 deliver controlled, counterfeit, or look-alike substances.

14 (50) Delivery of controlled substances.

15 (51) Sale or delivery of drug paraphernalia.

16 (52) Felony possession, sale, or exchange of  
17 instruments adapted for use of a controlled substance,  
18 methamphetamine, or cannabis by subcutaneous injection.

19 (53) Any violation of the Methamphetamine Control and  
20 Community Protection Act.

21 (d) Notwithstanding subsection (c), the Department may  
22 issue a new foster family home license or may renew an existing  
23 foster family home license of an applicant who was convicted of  
24 an offense described in subsection (c), provided all of the  
25 following requirements are met:

26 (1) The relevant criminal offense or offenses occurred

1 more than 10 years prior to the date of application or  
2 renewal.

3 (2) The applicant had previously disclosed the  
4 conviction or convictions to the Department for purposes of  
5 a background check.

6 (3) After the disclosure, the Department either placed  
7 a child in the home or the foster family home license was  
8 issued.

9 (4) During the background check, the Department had  
10 assessed and waived the conviction in compliance with the  
11 existing statutes and rules in effect at the time of the  
12 waiver.

13 (5) The applicant meets all other requirements and  
14 qualifications to be licensed as a foster family home under  
15 this Act and the Department's administrative rules.

16 (6) The applicant has a history of providing a safe,  
17 stable home environment and appears able to continue to  
18 provide a safe, stable home environment.

19 (Source: P.A. 93-151, eff. 7-10-03; 94-556, eff. 9-11-05.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.