



Sen. Jacqueline Y. Collins

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09600SB0678sam001

LRB096 06735 KTG 38983 a

1 AMENDMENT TO SENATE BILL 678

2 AMENDMENT NO. _____. Amend Senate Bill 678 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Identification Act is amended by
5 adding Section 15 as follows:

6 (20 ILCS 2630/15 new)

7 Sec. 15. Notification of outstanding warrant. If the
8 existence of an outstanding arrest warrant is identified by the
9 Department in connection with the criminal history background
10 checks conducted pursuant to subsection (b) of Section 2-201.5
11 of the Nursing Home Care Act, the Department shall notify the
12 issuing jurisdiction of the following: (i) the existence of the
13 warrant and (ii) the name, address, and telephone number of the
14 licensed long term care facility in which the wanted person
15 resides.

1 Section 10. The Nursing Home Care Act is amended by
2 changing Sections 1-114.01, 2-201.5, and 2-201.6 and by adding
3 Section 3-808 as follows:

4 (210 ILCS 45/1-114.01)

5 Sec. 1-114.01. Identified offender. "Identified offender"
6 means a person who has been convicted of any felony or
7 misdemeanor offense ~~listed in Section 25 of the Health Care~~
8 ~~Worker Background Check Act,~~ is a registered sex offender, or
9 has an outstanding arrest warrant ~~is serving a term of parole,~~
10 ~~mandatory supervised release, or probation for a felony~~
11 ~~offense.~~

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

13 (210 ILCS 45/2-201.5)

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

15 (a) All persons age 18 or older seeking admission to a
16 nursing facility must be screened to determine the need for
17 nursing facility services prior to being admitted, regardless
18 of income, assets, or funding source. In addition, any person
19 who seeks to become eligible for medical assistance from the
20 Medical Assistance Program under the Illinois Public Aid Code
21 to pay for long term care services while residing in a facility
22 must be screened prior to receiving those benefits. Screening
23 for nursing facility services shall be administered through

1 procedures established by administrative rule. Screening may
2 be done by agencies other than the Department as established by
3 administrative rule. This Section applies on and after July 1,
4 1996.

5 (b) In addition to the screening required by subsection
6 (a), a facility, except for those licensed as long term care
7 for under age 22 facilities, shall, within 24 hours after
8 admission, request a criminal history background check
9 pursuant to the Uniform Conviction Information Act for all
10 persons age 18 or older seeking admission to the facility.
11 Background checks conducted pursuant to this Section shall be
12 based on the resident's name, date of birth, and other
13 identifiers as required by the Department of State Police. If
14 the results of the background check are inconclusive, the
15 facility shall initiate a fingerprint-based check, unless the
16 fingerprint check is waived by the Director of Public Health
17 based on verification by the facility that the resident is
18 completely immobile or that the resident meets other criteria
19 related to the resident's health or lack of potential risk
20 which may be established by Departmental rule. A waiver issued
21 pursuant to this Section shall be valid only while the resident
22 is immobile or while the criteria supporting the waiver exist.
23 The facility shall provide for or arrange for any required
24 fingerprint-based checks to be taken on the premises of the
25 facility. If a fingerprint-based check is required, the
26 facility shall arrange for it to be conducted in a manner that

1 is respectful of the resident's dignity and that minimizes any
2 emotional or physical hardship to the resident.

3 A facility, except for those licensed as long term care for
4 under age 22 facilities, shall, within 60 days after the
5 effective date of this amendatory Act of the 94th General
6 Assembly, request a criminal history background check pursuant
7 to the Uniform Conviction Information Act for all persons who
8 are residents of the facility on the effective date of this
9 amendatory Act of the 94th General Assembly. The facility shall
10 review the results of the criminal history background checks
11 immediately upon receipt thereof. If the results of the
12 background check are inconclusive, the facility shall initiate
13 a fingerprint-based check unless the fingerprint-based check
14 is waived by the Director of Public Health based on
15 verification by the facility that the resident is completely
16 immobile or that the resident meets other criteria related to
17 the resident's health or lack of potential risk which may be
18 established by Departmental rule. A waiver issued pursuant to
19 this Section shall be valid only while the resident is immobile
20 or while the criteria supporting the waiver exist. The facility
21 shall provide for or arrange for any required fingerprint-based
22 checks to be taken on the premises of the facility. If a
23 fingerprint-based check is required, the facility shall
24 arrange for it to be conducted in a manner that is respectful
25 of the resident's dignity and that minimizes any emotional or
26 physical hardship to the resident.

1 (c) If the results of a resident's criminal history
2 background check reveal that the resident is an identified
3 offender as defined in Section 1-114.01, the facility shall
4 immediately fax the resident's name and criminal history
5 information to the ~~Illinois~~ Department of State Police ~~Public~~
6 ~~Health~~, which shall conduct a Criminal History Analysis
7 pursuant to Section 2-201.6. ~~The Criminal History Analysis~~
8 ~~shall be conducted independently of the Illinois Department of~~
9 ~~Public Health's Office of Healthcare Regulation. The Office of~~
10 ~~Healthcare Regulation shall have no involvement with the~~
11 ~~process of reviewing or analyzing the criminal history of~~
12 ~~identified offenders.~~

13 (d) The ~~Illinois~~ Department of State Police ~~Public Health~~
14 shall keep a continuing record of all residents determined to
15 be identified offenders under Section 1-114.01 and shall report
16 the number of identified offender residents annually to the
17 General Assembly.

18 (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

19 (210 ILCS 45/2-201.6)

20 Sec. 2-201.6. Criminal History Analysis.

21 (a) The Department of State Police shall immediately
22 commence a Criminal History Analysis when it receives
23 information, through the criminal history background check
24 required pursuant to subsection (b) of Section 2-201.5 or
25 through any other means, that a resident of a facility is an

1 identified offender.

2 (b) The Department of State Police shall complete the
3 Criminal History Analysis as soon as practicable, but not later
4 than 14 days after receiving notice from the facility under
5 subsection (a).

6 (c) The Criminal History Analysis shall include, but not be
7 limited to, all of the following:

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

10 (2) Consultation with the convicting prosecutor's
11 office.

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

14 (4) An interview with the identified offender.

15 (5) Consultation with the facility administrator or
16 facility medical director, or both, regarding the physical
17 condition of the identified offender.

18 (6) Consideration of the entire criminal history of the
19 offender, including the date of the identified offender's
20 last conviction relative to the date of admission to a
21 long-term care facility.

22 (7) If the identified offender is a convicted or
23 registered sex offender, a review of any and all sex
24 offender evaluations conducted on that offender. If there
25 is no sex offender evaluation available, the facility in
26 which the identified offender resides ~~Department~~ shall

1 provide for a sex offender evaluation to be conducted on
2 the identified offender. If the convicted or registered sex
3 offender is under supervision by the Illinois Department of
4 Corrections or a county probation department, the sex
5 offender evaluation shall be arranged by and at the expense
6 of the supervising agency. All evaluations conducted on
7 convicted or registered sex offenders under this Act shall
8 be conducted by sex offender evaluators approved by the Sex
9 Offender Management Board.

10 (d) The Department of State Police shall prepare a Criminal
11 History Analysis Report based on the analysis conducted
12 pursuant to subsection (c). The Report shall include a summary
13 of the Risk Analysis and shall detail whether and to what
14 extent the identified offender's criminal history necessitates
15 the implementation of security measures within the long-term
16 care facility. If the identified offender is a convicted or
17 registered sex offender or if the Department's Criminal History
18 Analysis reveals that the identified offender poses a
19 significant risk of harm to others within the facility, the
20 offender shall be required to have his or her own room within
21 the facility.

22 (e) The Criminal History Analysis Report shall promptly be
23 provided to the following:

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

26 (2) The Chief of Police of the municipality in which

1 the facility is located.

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

3 (f) The facility shall incorporate the Criminal History
4 Analysis Report into the identified offender's care plan
5 created pursuant to 42 CFR 483.20.

6 (g) If, based on the Criminal History Analysis Report, a
7 facility determines that it cannot manage the identified
8 offender resident safely within the facility, it shall commence
9 involuntary transfer or discharge proceedings pursuant to
10 Section 3-402.

11 (h) Except for willful and wanton misconduct, any person
12 authorized to participate in the development of a Criminal
13 History Analysis or Criminal History Analysis Report is immune
14 from criminal or civil liability for any acts or omissions as
15 the result of his or her good faith effort to comply with this
16 Section.

17 (Source: P.A. 94-752, eff. 5-10-06.)

18 (210 ILCS 45/3-808 new)

19 Sec. 3-808. Nursing home fraud, abuse, and neglect
20 prevention and reporting.

21 (a) Every licensed long term care facility that receives
22 Medicaid funding shall prominently display in its lobby, in its
23 dining areas, and on each floor of the facility information
24 approved by the Illinois Medicaid Fraud Control Unit on how to
25 report fraud, abuse, and neglect. In addition, information

1 regarding the reporting of fraud, abuse, and neglect shall be
2 provided to each resident at the time of admission and to the
3 resident's family members or emergency contacts, or to both the
4 resident's family members and his or her emergency contacts.

5 (b) Any owner or licensee of a long term care facility who
6 furnishes or fails to furnish goods or services to a resident
7 that, when based upon competent medical judgment and evaluation
8 within accepted standards of care, are determined to be harmful
9 to the resident or are of grossly inferior quality, is guilty
10 of a Class 4 felony.

11 (c) Any owner or licensee of a long term care facility
12 licensed under the this Act shall be responsible for the
13 collection and maintenance of any and all records required to
14 be maintained under this Section and any other applicable
15 provisions of this Act, and as a provider under the Illinois
16 Public Aid Code, and shall be responsible for compliance with
17 all of the disclosure requirements under this Section. All
18 books and records and other papers and documents that are
19 required to be kept, and all records showing compliance with
20 all of the disclosure requirements to be made pursuant to this
21 Section, shall be kept at the facility and shall, at all times
22 during business hours, be subject to inspection by any law
23 enforcement or health oversight agency or its duly authorized
24 agents or employees.

25 (d) Any report of abuse and neglect of residents made by
26 any individual in whatever manner, including, but not limited

1 to, reports made under Sections 2-107 and 3-610 of this Act, or
2 as provided under the Abused and Neglected Long Term Care
3 Facility Residents Reporting Act, that is made to an
4 administrator, a director of nursing, or any other person with
5 management responsibility at a long term care facility must be
6 disclosed to the owners and licensee of the facility within 24
7 hours of the report. The owners and licensee of a long term
8 care facility shall maintain all records necessary to show
9 compliance with this disclosure requirement.

10 (e) Any person with an ownership interest in a long term
11 care facility licensed by the Department must, within 30 days
12 of the effective date of this amendatory Act of the 96th
13 General Assembly, disclose the existence of any ownership
14 interest in any vendor who does business with the facility. The
15 disclosures required by this subsection shall be made in the
16 form and manner prescribed by the Department. Licensed long
17 term care facilities who receive Medicaid funding shall submit
18 a copy of the disclosures required by this subsection to the
19 Illinois Medicaid Fraud Control Unit. The owners and licensee
20 of a long term care facility shall maintain all records
21 necessary to show compliance with this disclosure requirement.

22 (f) Notwithstanding the provisions of Section 3-318 of this
23 Act, and in addition thereto, any person, owner, or licensee
24 who fails to keep and maintain, or fails to produce for
25 inspection, books and records, or fails to make the disclosures
26 required by this Section, is guilty of a Class A misdemeanor. A

1 second or subsequent violation of this Section shall be
2 punishable as a Class 4 felony.

3 (g) Any owner or licensee who files or causes to be filed a
4 document with false information with the Department, the
5 Department of Healthcare and Family Services, or the Illinois
6 Medicaid Fraud Control Unit or any other law enforcement
7 agency, or who makes a false statement or representation to the
8 Illinois Medicaid Fraud Control Unit or any law enforcement
9 agency, is guilty of a Class 4 felony.

10 Section 15. The Criminal Code of 1961 is amended by
11 changing Section 12-19 as follows:

12 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

13 (Text of Section before amendment by P.A. 96-339)

14 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
15 Facility Resident.

16 (a) Any person or any owner or licensee of a long term care
17 facility who abuses a long term care facility resident is
18 guilty of a Class 3 felony. Any person or any owner or licensee
19 of a long term care facility who criminally neglects a long
20 term care facility resident is guilty of a Class 4 felony. A
21 person whose criminal neglect of a long term care facility
22 resident results in the resident's death is guilty of a Class 3
23 felony. However, nothing herein shall be deemed to apply to a
24 physician licensed to practice medicine in all its branches or

1 a duly licensed nurse providing care within the scope of his or
2 her professional judgment and within the accepted standards of
3 care within the community. Notwithstanding the provisions of
4 Section 5-4 of this Code, any owner or licensee of a long term
5 care facility, whether an individual, public or private
6 corporation, limited liability company, partnership,
7 unincorporated association, or any other entity doing business
8 in this State, may be prosecuted under this Section if the
9 conduct giving rise to the offense is performed by any agent of
10 the owner or licensee. It shall not be a defense to this
11 Section if the owner or licensee acted with organizational
12 indifference.

13 (b) Notwithstanding the penalties in subsections (a) ~~and~~
14 ~~(e)~~ and in addition thereto, if a licensee or owner of a long
15 term care facility or his or her employee has caused neglect of
16 a resident, the licensee or owner is guilty of a petty offense.
17 An owner or licensee is guilty under this subsection (b) only
18 if the owner or licensee failed to exercise reasonable care in
19 the hiring, training, supervising or providing of staff or
20 other related routine administrative responsibilities.

21 (c) ~~(Blank) Notwithstanding the penalties in subsections~~
22 ~~(a) and (b) and in addition thereto, if a licensee or owner of~~
23 ~~a long term care facility or his or her employee has caused~~
24 ~~gross neglect of a resident, the licensee or owner is guilty of~~
25 ~~a business offense for which a fine of not more than \$10,000~~
26 ~~may be imposed. An owner or licensee is guilty under this~~

1 ~~subsection (c) only if the owner or licensee failed to exercise~~
2 ~~reasonable care in the hiring, training, supervising or~~
3 ~~providing of staff or other related routine administrative~~
4 ~~responsibilities.~~

5 (d) For the purpose of this Section:

6 (1) "Abuse" means intentionally or knowingly causing
7 any physical or mental injury or committing any sexual
8 offense set forth in this Code.

9 (2) "Criminal neglect" means an act whereby a person
10 recklessly (i) performs acts that cause an elderly person's
11 or person with a disability's life to be endangered, health
12 to be injured, or pre-existing physical or mental condition
13 to deteriorate or creates the substantial likelihood of
14 injury or deterioration, or (ii) fails to perform acts that
15 he or she knows or reasonably should know are necessary to
16 maintain or preserve the life or health of an elderly
17 person or person with a disability, and that failure causes
18 the elderly person's or person with a disability's life to
19 be endangered, health to be injured, or pre-existing
20 physical or mental condition to deteriorate or creates the
21 substantial likelihood of injury or deterioration, or
22 (iii) abandons an elderly person or person with a
23 disability.

24 (3) "Neglect" means negligently failing to provide
25 adequate medical or personal care or maintenance, which
26 failure results in physical or mental injury or the

1 deterioration of a physical or mental condition.

2 (4) "Resident" means a person residing in a long term
3 care facility.

4 (5) "Owner" means the person who owns a long term care
5 facility as provided under the Nursing Home Care Act or an
6 assisted living or shared housing establishment under the
7 Assisted Living and Shared Housing Act.

8 (6) "Licensee" means the individual or entity licensed
9 to operate a facility under the Nursing Home Care Act or
10 the Assisted Living and Shared Housing Act.

11 (7) "Facility" or "long term care facility" means a
12 private home, institution, building, residence, or any
13 other place, whether operated for profit or not, or a
14 county home for the infirm and chronically ill operated
15 pursuant to Division 5-21 or 5-22 of the Counties Code, or
16 any similar institution operated by the State of Illinois
17 or a political subdivision thereof, which provides,
18 through its ownership or management, personal care,
19 sheltered care or nursing for 3 or more persons not related
20 to the owner by blood or marriage. The term also includes
21 skilled nursing facilities and intermediate care
22 facilities as defined in Title XVIII and Title XIX of the
23 federal Social Security Act and assisted living
24 establishments and shared housing establishments licensed
25 under the Assisted Living and Shared Housing Act.

26 (8) "Organizational indifference" means that an owner

1 or licensee failed to exercise reasonable care in the
2 hiring, training, supervising, or providing of staff or
3 other related routine health care responsibilities.

4 (e) Nothing contained in this Section shall be deemed to
5 apply to the medical supervision, regulation or control of the
6 remedial care or treatment of residents in a facility conducted
7 for those who rely upon treatment by prayer or spiritual means
8 in accordance with the creed or tenets of any well recognized
9 church or religious denomination and which is licensed in
10 accordance with Section 3-803 of the Nursing Home Care Act.

11 (Source: P.A. 93-301, eff. 1-1-04.)

12 (Text of Section after amendment by P.A. 96-339)

13 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
14 Facility Resident.

15 (a) Any person or any owner or licensee of a long term care
16 facility who abuses a long term care facility resident is
17 guilty of a Class 3 felony. Any person or any owner or licensee
18 of a long term care facility who criminally neglects a long
19 term care facility resident is guilty of a Class 4 felony. A
20 person whose criminal neglect of a long term care facility
21 resident results in the resident's death is guilty of a Class 3
22 felony. However, nothing herein shall be deemed to apply to a
23 physician licensed to practice medicine in all its branches or
24 a duly licensed nurse providing care within the scope of his or
25 her professional judgment and within the accepted standards of

1 care within the community. Notwithstanding the provisions of
2 Section 5-4 of this Code, any owner or licensee of a long term
3 care facility, whether an individual, public or private
4 corporation, limited liability company, partnership,
5 unincorporated association, or any other entity doing business
6 in this State, may be prosecuted under this Section if the
7 conduct giving rise to the offense is performed by any agent of
8 the owner or licensee. It shall not be a defense to this
9 Section if the owner or licensee acted with organizational
10 indifference.

11 (b) Notwithstanding the penalties in subsections (a) and
12 (c) and in addition thereto, if a licensee or owner of a long
13 term care facility or his or her employee has caused neglect of
14 a resident, the licensee or owner is guilty of a petty offense.
15 An owner or licensee is guilty under this subsection (b) only
16 if the owner or licensee failed to exercise reasonable care in
17 the hiring, training, supervising or providing of staff or
18 other related routine administrative responsibilities.

19 (c) (Blank) ~~Notwithstanding the penalties in subsections~~
20 ~~(a) and (b) and in addition thereto, if a licensee or owner of~~
21 ~~a long term care facility or his or her employee has caused~~
22 ~~gross neglect of a resident, the licensee or owner is guilty of~~
23 ~~a business offense for which a fine of not more than \$10,000~~
24 ~~may be imposed. An owner or licensee is guilty under this~~
25 ~~subsection (c) only if the owner or licensee failed to exercise~~
26 ~~reasonable care in the hiring, training, supervising or~~

1 ~~providing of staff or other related routine administrative~~
2 ~~responsibilities.~~

3 (d) For the purpose of this Section:

4 (1) "Abuse" means intentionally or knowingly causing
5 any physical or mental injury or committing any sexual
6 offense set forth in this Code.

7 (2) "Criminal neglect" means an act whereby a person
8 recklessly (i) performs acts that cause an elderly person's
9 or person with a disability's life to be endangered, health
10 to be injured, or pre-existing physical or mental condition
11 to deteriorate or creates the substantial likelihood of
12 injury or deterioration, or (ii) fails to perform acts that
13 he or she knows or reasonably should know are necessary to
14 maintain or preserve the life or health of an elderly
15 person or person with a disability, and that failure causes
16 the elderly person's or person with a disability's life to
17 be endangered, health to be injured, or pre-existing
18 physical or mental condition to deteriorate or creates the
19 substantial likelihood of injury or deterioration, or
20 (iii) abandons an elderly person or person with a
21 disability.

22 (3) "Neglect" means negligently failing to provide
23 adequate medical or personal care or maintenance, which
24 failure results in physical or mental injury or the
25 deterioration of a physical or mental condition.

26 (4) "Resident" means a person residing in a long term

1 care facility.

2 (5) "Owner" means the person who owns a long term care
3 facility as provided under the Nursing Home Care Act, a
4 facility as provided under the MR/DD Community Care Act, or
5 an assisted living or shared housing establishment under
6 the Assisted Living and Shared Housing Act.

7 (6) "Licensee" means the individual or entity licensed
8 to operate a facility under the Nursing Home Care Act, the
9 MR/DD Community Care Act, or the Assisted Living and Shared
10 Housing Act.

11 (7) "Facility" or "long term care facility" means a
12 private home, institution, building, residence, or any
13 other place, whether operated for profit or not, or a
14 county home for the infirm and chronically ill operated
15 pursuant to Division 5-21 or 5-22 of the Counties Code, or
16 any similar institution operated by the State of Illinois
17 or a political subdivision thereof, which provides,
18 through its ownership or management, personal care,
19 sheltered care or nursing for 3 or more persons not related
20 to the owner by blood or marriage. The term also includes
21 skilled nursing facilities and intermediate care
22 facilities as defined in Title XVIII and Title XIX of the
23 federal Social Security Act and assisted living
24 establishments and shared housing establishments licensed
25 under the Assisted Living and Shared Housing Act.

26 (8) "Organizational indifference" means that an owner

1 or licensee failed to exercise reasonable care in the
2 hiring, training, supervising, or providing of staff or
3 other related routine health care responsibilities.

4 (e) Nothing contained in this Section shall be deemed to
5 apply to the medical supervision, regulation or control of the
6 remedial care or treatment of residents in a facility conducted
7 for those who rely upon treatment by prayer or spiritual means
8 in accordance with the creed or tenets of any well recognized
9 church or religious denomination and which is licensed in
10 accordance with Section 3-803 of the Nursing Home Care Act or
11 Section 3-803 of the MR/DD Community Care Act.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 Section 95. No acceleration or delay. Where this Act makes
14 changes in a statute that is represented in this Act by text
15 that is not yet or no longer in effect (for example, a Section
16 represented by multiple versions), the use of that text does
17 not accelerate or delay the taking effect of (i) the changes
18 made by this Act or (ii) provisions derived from any other
19 Public Act.

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