



Rep. Ann Williams

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1 AMENDMENT TO HOUSE BILL 5008

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5008 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by  
5 changing Section 2-201.5 as follows:

6 (210 ILCS 45/2-201.5)

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

8 (a) All persons age 18 or older seeking admission to a  
9 nursing facility must be screened to determine the need for  
10 nursing facility services prior to being admitted, regardless  
11 of income, assets, or funding source. Screening for nursing  
12 facility services shall be administered through procedures  
13 established by administrative rule. Screening may be done by  
14 agencies other than the Department as established by  
15 administrative rule. This Section applies on and after July 1,  
16 1996. No later than October 1, 2010, the Department of

1 Healthcare and Family Services, in collaboration with the  
2 Department on Aging, the Department of Human Services, and the  
3 Department of Public Health, shall file administrative rules  
4 providing for the gathering, during the screening process, of  
5 information relevant to determining each person's potential  
6 for placing other residents, employees, and visitors at risk of  
7 harm.

8 (a-1) Any screening performed pursuant to subsection (a) of  
9 this Section shall include a determination of whether any  
10 person is being considered for admission to a nursing facility  
11 due to a need for mental health services. For a person who  
12 needs mental health services, the screening shall also include  
13 an evaluation of whether there is permanent supportive housing,  
14 or an array of community mental health services, including but  
15 not limited to supported housing, assertive community  
16 treatment, and peer support services, that would enable the  
17 person to live in the community. The person shall be told about  
18 the existence of any such services that would enable the person  
19 to live safely and humanely and about available appropriate  
20 nursing home services that would enable the person to live  
21 safely and humanely, and the person shall be given the  
22 assistance necessary to avail himself or herself of any  
23 available services.

24 (a-2) Pre-screening for persons with a serious mental  
25 illness shall be performed by a psychiatrist, a psychologist, a  
26 registered nurse certified in psychiatric nursing, a licensed

1 clinical professional counselor, or a licensed clinical social  
2 worker, who is competent to (i) perform a clinical assessment  
3 of the individual, (ii) certify a diagnosis, (iii) make a  
4 determination about the individual's current need for  
5 treatment, including substance abuse treatment, and recommend  
6 specific treatment, and (iv) determine whether a facility or a  
7 community-based program is able to meet the needs of the  
8 individual.

9 For any person entering a nursing facility, the  
10 pre-screening agent shall make specific recommendations about  
11 what care and services the individual needs to receive,  
12 beginning at admission, to attain or maintain the individual's  
13 highest level of independent functioning and to live in the  
14 most integrated setting appropriate for his or her physical and  
15 personal care and developmental and mental health needs. These  
16 recommendations shall be revised as appropriate by the  
17 pre-screening or re-screening agent based on the results of  
18 resident review and in response to changes in the resident's  
19 wishes, needs, and interest in transition.

20 Upon the person entering the nursing facility, the  
21 Department of Human Services or its designee shall assist the  
22 person in establishing a relationship with a community mental  
23 health agency or other appropriate agencies in order to (i)  
24 promote the person's transition to independent living and (ii)  
25 support the person's progress in meeting individual goals.

26 (a-3) The Department of Human Services, by rule, shall

1 provide for a prohibition on conflicts of interest for  
2 pre-admission screeners. The rule shall provide for waiver of  
3 those conflicts by the Department of Human Services if the  
4 Department of Human Services determines that a scarcity of  
5 qualified pre-admission screeners exists in a given community  
6 and that, absent a waiver of conflicts, an insufficient number  
7 of pre-admission screeners would be available. If a conflict is  
8 waived, the pre-admission screener shall disclose the conflict  
9 of interest to the screened individual in the manner provided  
10 for by rule of the Department of Human Services. For the  
11 purposes of this subsection, a "conflict of interest" includes,  
12 but is not limited to, the existence of a professional or  
13 financial relationship between (i) a PAS-MH corporate or a  
14 PAS-MH agent and (ii) a community provider or long-term care  
15 facility.

16 (b) In addition to the screening required by subsection  
17 (a), a facility, except for those licensed as long term care  
18 for under age 22 facilities, shall, within 24 hours after  
19 admission, request a criminal history background check  
20 pursuant to the Uniform Conviction Information Act for all  
21 persons age 18 or older seeking admission to the facility,  
22 unless a background check was initiated by a hospital pursuant  
23 to subsection (d) of Section 6.09 of the Hospital Licensing  
24 Act. Background checks conducted pursuant to this Section shall  
25 be based on the resident's name, date of birth, and other  
26 identifiers as required by the Department of State Police. If

1 the results of the background check are inconclusive, the  
2 facility shall initiate a fingerprint-based check, unless the  
3 fingerprint check is waived by the Director of Public Health  
4 based on verification by the facility that the resident is  
5 completely immobile or that the resident meets other criteria  
6 related to the resident's health or lack of potential risk  
7 which may be established by Departmental rule. A waiver issued  
8 pursuant to this Section shall be valid only while the resident  
9 is immobile or while the criteria supporting the waiver exist.  
10 The facility shall provide for or arrange for any required  
11 fingerprint-based checks to be taken on the premises of the  
12 facility. If a fingerprint-based check is required, the  
13 facility shall arrange for it to be conducted in a manner that  
14 is respectful of the resident's dignity and that minimizes any  
15 emotional or physical hardship to the resident. Fingerprint  
16 vendors assisting in the initiation of fingerprint checks shall  
17 comply with the provisions contained in Section 37 of the  
18 Health Care Worker Background Check Act.

19 (c) If the results of a resident's criminal history  
20 background check reveal that the resident is an identified  
21 offender as defined in Section 1-114.01, the facility shall do  
22 the following:

23 (1) Immediately notify the Department of State Police,  
24 in the form and manner required by the Department of State  
25 Police, in collaboration with the Department of Public  
26 Health, that the resident is an identified offender.

1           (2) Within 72 hours, arrange for a fingerprint-based  
2 criminal history record inquiry to be requested on the  
3 identified offender resident. The inquiry shall be based on  
4 the subject's name, sex, race, date of birth, fingerprint  
5 images, and other identifiers required by the Department of  
6 State Police. The inquiry shall be processed through the  
7 files of the Department of State Police and the Federal  
8 Bureau of Investigation to locate any criminal history  
9 record information that may exist regarding the subject.  
10 The Federal Bureau of Investigation shall furnish to the  
11 Department of State Police, pursuant to an inquiry under  
12 this paragraph (2), any criminal history record  
13 information contained in its files.

14           The facility shall comply with all applicable provisions  
15 contained in the Uniform Conviction Information Act.

16           All name-based and fingerprint-based criminal history  
17 record inquiries shall be submitted to the Department of State  
18 Police electronically in the form and manner prescribed by the  
19 Department of State Police. The Department of State Police may  
20 charge the facility a fee for processing name-based and  
21 fingerprint-based criminal history record inquiries. The fee  
22 shall be deposited into the State Police Services Fund. The fee  
23 shall not exceed the actual cost of processing the inquiry.

24           (d) (Blank).

25           (e) The Department shall develop and maintain a  
26 de-identified database of residents who have injured facility

1 staff, facility visitors, or other residents, and the attendant  
2 circumstances, solely for the purposes of evaluating and  
3 improving resident pre-screening and assessment procedures  
4 (including the Criminal History Report prepared under Section  
5 2-201.6) and the adequacy of Department requirements  
6 concerning the provision of care and services to residents. A  
7 resident shall not be listed in the database until a Department  
8 survey confirms the accuracy of the listing. The names of  
9 persons listed in the database and information that would allow  
10 them to be individually identified shall not be made public.  
11 Neither the Department nor any other agency of State government  
12 may use information in the database to take any action against  
13 any individual, licensee, or other entity, unless the  
14 Department or agency receives the information independent of  
15 this subsection (e). All information collected, maintained, or  
16 developed under the authority of this subsection (e) for the  
17 purposes of the database maintained under this subsection (e)  
18 shall be treated in the same manner as information that is  
19 subject to Part 21 of Article VIII of the Code of Civil  
20 Procedure.

21 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

22 Section 8. The ID/DD Community Care Act is amended by  
23 changing Section 2-201.5 as follows:

24 (210 ILCS 47/2-201.5)

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

2           (a) All persons age 18 or older seeking admission to a  
3 facility must be screened to determine the need for facility  
4 services prior to being admitted, regardless of income, assets,  
5 or funding source. In addition, any person who seeks to become  
6 eligible for medical assistance from the Medical Assistance  
7 Program under the Illinois Public Aid Code to pay for services  
8 while residing in a facility must be screened prior to  
9 receiving those benefits. Screening for facility services  
10 shall be administered through procedures established by  
11 administrative rule. Screening may be done by agencies other  
12 than the Department as established by administrative rule.

13           (a-1) Any screening shall also include an evaluation of  
14 whether there are residential supports and services or an array  
15 of community services that would enable the person to live in  
16 the community. The person shall be told about the existence of  
17 any such services that would enable the person to live safely  
18 and humanely in the least restrictive environment, that is  
19 appropriate, that the individual or guardian chooses, and the  
20 person shall be given the assistance necessary to avail himself  
21 or herself of any available services.

22           (b) In addition to the screening required by subsection  
23 (a), a facility shall, within 24 hours after admission, request  
24 a criminal history background check pursuant to the Uniform  
25 Conviction Information Act for all persons age 18 or older  
26 seeking admission to the facility. Background checks conducted



1 pursuant to this Section shall be based on the resident's name,  
2 date of birth, and other identifiers as required by the  
3 Department of State Police. If the results of the background  
4 check are inconclusive, the facility shall initiate a  
5 fingerprint-based check, unless the fingerprint-based check is  
6 waived by the Director of Public Health based on verification  
7 by the facility that the resident is completely immobile or  
8 that the resident meets other criteria related to the  
9 resident's health or lack of potential risk which may be  
10 established by Departmental rule. A waiver issued pursuant to  
11 this Section shall be valid only while the resident is immobile  
12 or while the criteria supporting the waiver exist. The facility  
13 shall provide for or arrange for any required fingerprint-based  
14 checks. If a fingerprint-based check is required, the facility  
15 shall arrange for it to be conducted in a manner that is  
16 respectful of the resident's dignity and that minimizes any  
17 emotional or physical hardship to the resident. Fingerprint  
18 vendors assisting in the initiation of fingerprint checks shall  
19 comply with the provisions contained in Section 37 of the  
20 Health Care Worker Background Check Act.

21 (c) If the results of a resident's criminal history  
22 background check reveal that the resident is an identified  
23 offender as defined in Section 1-114.01 of this Act, the  
24 facility shall do the following:

25 (1) Immediately notify the Department of State Police,  
26 in the form and manner required by the Department of State

1 Police, in collaboration with the Department of Public  
2 Health, that the resident is an identified offender.

3 (2) Within 72 hours, arrange for a fingerprint-based  
4 criminal history record inquiry to be requested on the  
5 identified offender resident. The inquiry shall be based on  
6 the subject's name, sex, race, date of birth, fingerprint  
7 images, and other identifiers required by the Department of  
8 State Police. The inquiry shall be processed through the  
9 files of the Department of State Police and the Federal  
10 Bureau of Investigation to locate any criminal history  
11 record information that may exist regarding the subject.  
12 The Federal Bureau of Investigation shall furnish to the  
13 Department of State Police, pursuant to an inquiry under  
14 this paragraph (2), any criminal history record  
15 information contained in its files. The facility shall  
16 comply with all applicable provisions contained in the  
17 Uniform Conviction Information Act. All name-based and  
18 fingerprint-based criminal history record inquiries shall  
19 be submitted to the Department of State Police  
20 electronically in the form and manner prescribed by the  
21 Department of State Police. The Department of State Police  
22 may charge the facility a fee for processing name-based and  
23 fingerprint-based criminal history record inquiries. The  
24 fee shall be deposited into the State Police Services Fund.  
25 The fee shall not exceed the actual cost of processing the  
26 inquiry.

1 (d) The Department shall develop and maintain a  
2 de-identified database of residents who have injured facility  
3 staff, facility visitors, or other residents, and the attendant  
4 circumstances, solely for the purposes of evaluating and  
5 improving resident pre-screening and assessment procedures  
6 (including the Criminal History Report prepared under Section  
7 2-201.6 of this Act) and the adequacy of Department  
8 requirements concerning the provision of care and services to  
9 residents. A resident shall not be listed in the database until  
10 a Department survey confirms the accuracy of the listing. The  
11 names of persons listed in the database and information that  
12 would allow them to be individually identified shall not be  
13 made public. Neither the Department nor any other agency of  
14 State government may use information in the database to take  
15 any action against any individual, licensee, or other entity  
16 unless the Department or agency receives the information  
17 independent of this subsection (d). All information collected,  
18 maintained, or developed under the authority of this subsection  
19 (d) for the purposes of the database maintained under this  
20 subsection (d) shall be treated in the same manner as  
21 information that is subject to Part 21 of Article VIII of the  
22 Code of Civil Procedure.

23 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11.)

24 Section 10. The Health Care Worker Background Check Act is  
25 amended by changing Section 15, 33, and 50 and by adding

1 Section 37 as follows:

2 (225 ILCS 46/15)

3 Sec. 15. Definitions. In this Act:

4 "Applicant" means an individual seeking employment with a  
5 health care employer who has received a bona fide conditional  
6 offer of employment.

7 "Conditional offer of employment" means a bona fide offer  
8 of employment by a health care employer to an applicant, which  
9 is contingent upon the receipt of a report from the Department  
10 of Public Health indicating that the applicant does not have a  
11 record of conviction of any of the criminal offenses enumerated  
12 in Section 25.

13 "Direct care" means the provision of nursing care or  
14 assistance with feeding, dressing, movement, bathing,  
15 toileting, or other personal needs, including home services as  
16 defined in the Home Health, Home Services, and Home Nursing  
17 Agency Licensing Act. The entity responsible for inspecting and  
18 licensing, certifying, or registering the health care employer  
19 may, by administrative rule, prescribe guidelines for  
20 interpreting this definition with regard to the health care  
21 employers that it licenses.

22 "Disqualifying offenses" means those offenses set forth in  
23 Section 25 of this Act.

24 "Employee" means any individual hired, employed, or  
25 retained to which this Act applies.

1 "Fingerprint-based criminal history records check" means a  
2 ~~livescan~~ fingerprint-based criminal history records check  
3 submitted as a fee applicant inquiry in the form and manner  
4 prescribed by the Department of State Police.

5 "Health care employer" means:

6 (1) the owner or licensee of any of the following:

7 (i) a community living facility, as defined in the  
8 Community Living Facilities Act;

9 (ii) a life care facility, as defined in the Life  
10 Care Facilities Act;

11 (iii) a long-term care facility;

12 (iv) a home health agency, home services agency, or  
13 home nursing agency as defined in the Home Health, Home  
14 Services, and Home Nursing Agency Licensing Act;

15 (v) a hospice care program or volunteer hospice  
16 program, as defined in the Hospice Program Licensing  
17 Act;

18 (vi) a hospital, as defined in the Hospital  
19 Licensing Act;

20 (vii) (blank);

21 (viii) a nurse agency, as defined in the Nurse  
22 Agency Licensing Act;

23 (ix) a respite care provider, as defined in the  
24 Respite Program Act;

25 (ix-a) an establishment licensed under the  
26 Assisted Living and Shared Housing Act;

1           (x) a supportive living program, as defined in the  
2 Illinois Public Aid Code;

3           (xi) early childhood intervention programs as  
4 described in 59 Ill. Adm. Code 121;

5           (xii) the University of Illinois Hospital,  
6 Chicago;

7           (xiii) programs funded by the Department on Aging  
8 through the Community Care Program;

9           (xiv) programs certified to participate in the  
10 Supportive Living Program authorized pursuant to  
11 Section 5-5.01a of the Illinois Public Aid Code;

12           (xv) programs listed by the Emergency Medical  
13 Services (EMS) Systems Act as Freestanding Emergency  
14 Centers;

15           (xvi) locations licensed under the Alternative  
16 Health Care Delivery Act;

17           (2) a day training program certified by the Department  
18 of Human Services;

19           (3) a community integrated living arrangement operated  
20 by a community mental health and developmental service  
21 agency, as defined in the Community-Integrated Living  
22 Arrangements Licensing and Certification Act; or

23           (4) the State Long Term Care Ombudsman Program,  
24 including any regional long term care ombudsman programs  
25 under Section 4.04 of the Illinois Act on the Aging, only  
26 for the purpose of securing background checks.

1       "Fingerprint vendor" means a person that offers,  
2 advertises, or provides services to fingerprint individuals,  
3 through electronic or other means, for the purpose of providing  
4 fingerprint images and associated demographic data to the  
5 Department of State Police for processing fingerprint-based  
6 criminal history record information inquiries.

7       "Initiate" means obtaining from a student, applicant, or  
8 employee his or her social security number, demographics, a  
9 disclosure statement, and an authorization for the Department  
10 of Public Health or its designee to request a fingerprint-based  
11 criminal history records check; transmitting this information  
12 electronically to the Department of Public Health; conducting  
13 Internet searches on certain web sites, including without  
14 limitation the Illinois Sex Offender Registry, the Department  
15 of Corrections' Sex Offender Search Engine, the Department of  
16 Corrections' Inmate Search Engine, the Department of  
17 Corrections Wanted Fugitives Search Engine, the National Sex  
18 Offender Public Registry, and the website of the Health and  
19 Human Services Office of Inspector General to determine if the  
20 applicant has been adjudicated a sex offender, has been a  
21 prison inmate, or has committed Medicare or Medicaid fraud, or  
22 conducting similar searches as defined by rule; and having the  
23 student, applicant, or employee's fingerprints collected and  
24 transmitted electronically to the Department of State Police.

25       ~~"Livescan vendor" means an entity whose equipment has been~~  
26 ~~certified by the Department of State Police to collect an~~

1 ~~individual's demographics and inkless fingerprints and, in a~~  
2 ~~manner prescribed by the Department of State Police and the~~  
3 ~~Department of Public Health, electronically transmit the~~  
4 ~~fingerprints and required data to the Department of State~~  
5 ~~Police and a daily file of required data to the Department of~~  
6 ~~Public Health. The Department of Public Health shall negotiate~~  
7 ~~a contract with one or more vendors that effectively~~  
8 ~~demonstrate that the vendor has 2 or more years of experience~~  
9 ~~transmitting fingerprints electronically to the Department of~~  
10 ~~State Police and that the vendor can successfully transmit the~~  
11 ~~required data in a manner prescribed by the Department of~~  
12 ~~Public Health. Vendor authorization may be further defined by~~  
13 ~~administrative rule.~~

14 "Long-term care facility" means a facility licensed by the  
15 State or certified under federal law as a long-term care  
16 facility, including without limitation facilities licensed  
17 under the Nursing Home Care Act, the Specialized Mental Health  
18 Rehabilitation Act, or the ID/DD Community Care Act, a  
19 supportive living facility, an assisted living establishment,  
20 or a shared housing establishment or registered as a board and  
21 care home.

22 (Source: P.A. 96-339, eff. 7-1-10; 97-38, eff. 6-28-11; 97-227,  
23 eff. 1-1-12; revised 10-4-11.)

24 (225 ILCS 46/33)

25 Sec. 33. Fingerprint-based criminal history records check.



1 (a) A fingerprint-based criminal history records check is  
2 not required for health care employees who have been  
3 continuously employed by a health care employer since October  
4 1, 2007, have met the requirements for criminal history  
5 background checks prior to October 1, 2007, and have no  
6 disqualifying convictions or requested and received a waiver of  
7 those disqualifying convictions. These employees shall be  
8 retained on the Health Care Worker Registry as long as they  
9 remain active. Nothing in this subsection (a) shall be  
10 construed to prohibit a health care employer from initiating a  
11 criminal history records check for these employees. Should  
12 these employees seek a new position with a different health  
13 care employer, then a fingerprint-based criminal history  
14 records check shall be required.

15 (b) On October 1, 2007 or as soon thereafter as is  
16 reasonably practical, in the discretion of the Director of  
17 Public Health, and thereafter, any student, applicant, or  
18 employee who desires to be included on the Department of Public  
19 Health's Health Care Worker Registry must authorize the  
20 Department of Public Health or its designee to request a  
21 fingerprint-based criminal history records check to determine  
22 if the individual has a conviction for a disqualifying offense.  
23 This authorization shall allow the Department of Public Health  
24 to request and receive information and assistance from any  
25 State or local governmental agency. Each individual shall  
26 submit his or her fingerprints to the Department of State

1 Police in an electronic format that complies with the form and  
2 manner for requesting and furnishing criminal history record  
3 information prescribed by the Department of State Police. The  
4 fingerprints submitted under this Section shall be checked  
5 against the fingerprint records now and hereafter filed in the  
6 Department of State Police criminal history record databases.  
7 The Department of State Police shall charge a fee for  
8 conducting the criminal history records check, which shall not  
9 exceed the actual cost of the records check. The fingerprint  
10 ~~livescan~~ vendor may act as the designee for individuals,  
11 educational entities, or health care employers in the  
12 collection of Department of State Police fees and deposit those  
13 fees into the State Police Services Fund. The Department of  
14 State Police shall provide information concerning any criminal  
15 convictions, now or hereafter filed, against the individual.

16 (c) On October 1, 2007 or as soon thereafter as is  
17 reasonably practical, in the discretion of the Director of  
18 Public Health, and thereafter, an educational entity, other  
19 than a secondary school, conducting a nurse aide training  
20 program must initiate a fingerprint-based criminal history  
21 records check requested by the Department of Public Health  
22 prior to entry of an individual into the training program.

23 (d) On October 1, 2007 or as soon thereafter as is  
24 reasonably practical, in the discretion of the Director of  
25 Public Health, and thereafter, a health care employer who makes  
26 a conditional offer of employment to an applicant for a

1 position as an employee must initiate a fingerprint-based  
2 criminal history record check, requested by the Department of  
3 Public Health, on the applicant, if such a background check has  
4 not been previously conducted.

5 (e) When initiating a background check requested by the  
6 Department of Public Health, an educational entity or health  
7 care employer shall electronically submit to the Department of  
8 Public Health the student's, applicant's, or employee's social  
9 security number, demographics, disclosure, and authorization  
10 information in a format prescribed by the Department of Public  
11 Health within 2 working days after the authorization is  
12 secured. The student, applicant, or employee must have his or  
13 her fingerprints collected electronically and transmitted to  
14 the Department of State Police within 10 working days. The  
15 educational entity or health care employer must transmit all  
16 necessary information and fees to the fingerprint livescan  
17 vendor and Department of State Police within 10 working days  
18 after receipt of the authorization. This information and the  
19 results of the criminal history record checks shall be  
20 maintained by the Department of Public Health's Health Care  
21 Worker Registry.

22 (f) A direct care employer may initiate a fingerprint-based  
23 background check requested by the Department of Public Health  
24 for any of its employees, but may not use this process to  
25 initiate background checks for residents. The results of any  
26 fingerprint-based background check that is initiated with the

1 Department as the requestor shall be entered in the Health Care  
2 Worker Registry.

3 (g) As long as the employee has had a fingerprint-based  
4 criminal history record check requested by the Department of  
5 Public Health and stays active on the Health Care Worker  
6 Registry, no further criminal history record checks shall be  
7 deemed necessary, as the Department of State Police shall  
8 notify the Department of Public Health of any additional  
9 convictions associated with the fingerprints previously  
10 submitted. Health care employers are required to check the  
11 Health Care Worker Registry before hiring an employee to  
12 determine that the individual has had a fingerprint-based  
13 record check requested by the Department of Public Health and  
14 has no disqualifying convictions or has been granted a waiver  
15 pursuant to Section 40 of this Act. If the individual has not  
16 had such a background check or is not active on the Health Care  
17 Worker Registry, then the health care employer must initiate a  
18 fingerprint-based record check requested by the Department of  
19 Public Health. If an individual is inactive on the Health Care  
20 Worker Registry, that individual is prohibited from being hired  
21 to work as a certified nurse aide if, since the individual's  
22 most recent completion of a competency test, there has been a  
23 period of 24 consecutive months during which the individual has  
24 not provided nursing or nursing-related services for pay. If  
25 the individual can provide proof of having retained his or her  
26 certification by not having a 24 consecutive month break in

1 service for pay, he or she may be hired as a certified nurse  
2 aide and that employment information shall be entered into the  
3 Health Care Worker Registry.

4 (h) On October 1, 2007 or as soon thereafter as is  
5 reasonably practical, in the discretion of the Director of  
6 Public Health, and thereafter, if the Department of State  
7 Police notifies the Department of Public Health that an  
8 employee has a new conviction of a disqualifying offense, based  
9 upon the fingerprints that were previously submitted, then (i)  
10 the Health Care Worker Registry shall notify the employee's  
11 last known employer of the offense, (ii) a record of the  
12 employee's disqualifying offense shall be entered on the Health  
13 Care Worker Registry, and (iii) the individual shall no longer  
14 be eligible to work as an employee unless he or she obtains a  
15 waiver pursuant to Section 40 of this Act.

16 (i) On October 1, 2007, or as soon thereafter, in the  
17 discretion of the Director of Public Health, as is reasonably  
18 practical, and thereafter, each direct care employer or its  
19 designee must provide an employment verification for each  
20 employee no less than annually. The direct care employer or its  
21 designee must log into the Health Care Worker Registry through  
22 a secure login. The health care employer or its designee must  
23 indicate employment and termination dates within 30 days after  
24 hiring or terminating an employee, as well as the employment  
25 category and type. Failure to comply with this subsection (i)  
26 constitutes a licensing violation. For health care employers

1 that are not licensed or certified, a fine of up to \$500 may be  
2 imposed for failure to maintain these records. This information  
3 shall be used by the Department of Public Health to notify the  
4 last known employer of any disqualifying offenses that are  
5 reported by the Department of State Police.

6 (j) The Department of Public Health shall notify each  
7 health care employer or long-term care facility inquiring as to  
8 the information on the Health Care Worker Registry if the  
9 applicant or employee listed on the registry has a  
10 disqualifying offense and is therefore ineligible to work or  
11 has a waiver pursuant to Section 40 of this Act.

12 (k) The student, applicant, or employee must be notified of  
13 each of the following whenever a fingerprint-based criminal  
14 history records check is required:

15 (1) That the educational entity, health care employer,  
16 or long-term care facility shall initiate a  
17 fingerprint-based criminal history record check requested  
18 by the Department of Public Health of the student,  
19 applicant, or employee pursuant to this Act.

20 (2) That the student, applicant, or employee has a  
21 right to obtain a copy of the criminal records report that  
22 indicates a conviction for a disqualifying offense and  
23 challenge the accuracy and completeness of the report  
24 through an established Department of State Police  
25 procedure of Access and Review.

26 (3) That the applicant, if hired conditionally, may be

1 terminated if the criminal records report indicates that  
2 the applicant has a record of a conviction of any of the  
3 criminal offenses enumerated in Section 25, unless the  
4 applicant obtains a waiver pursuant to Section 40 of this  
5 Act.

6 (4) That the applicant, if not hired conditionally,  
7 shall not be hired if the criminal records report indicates  
8 that the applicant has a record of a conviction of any of  
9 the criminal offenses enumerated in Section 25, unless the  
10 applicant obtains a waiver pursuant to Section 40 of this  
11 Act.

12 (5) That the employee shall be terminated if the  
13 criminal records report indicates that the employee has a  
14 record of a conviction of any of the criminal offenses  
15 enumerated in Section 25.

16 (6) If, after the employee has originally been  
17 determined not to have disqualifying offenses, the  
18 employer is notified that the employee has a new  
19 conviction(s) of any of the criminal offenses enumerated in  
20 Section 25, then the employee shall be terminated.

21 (1) A health care employer or long-term care facility may  
22 conditionally employ an applicant for up to 3 months pending  
23 the results of a fingerprint-based criminal history record  
24 check requested by the Department of Public Health.

25 (m) The Department of Public Health or an entity  
26 responsible for inspecting, licensing, certifying, or

1 registering the health care employer or long-term care facility  
2 shall be immune from liability for notices given based on the  
3 results of a fingerprint-based criminal history record check.

4 (Source: P.A. 95-120, eff. 8-13-07.)

5 (225 ILCS 46/37 new)

6 Sec. 37. Fingerprint vendor fees. The Department of Public  
7 Health shall establish a set fee for fingerprint services that  
8 all approved fingerprint vendors offering fingerprint services  
9 under this Act, Section 2-201.5 of the Nursing Home Care Act,  
10 and Section 2-201.5 of the ID/DD Community Care Act may not  
11 exceed. Any fingerprint vendor meeting the requirements set  
12 forth in this Section shall be licensed by the Department of  
13 Financial and Professional Regulation for participation in  
14 both programs. Any vendor currently providing fingerprint  
15 vendor services under the requirements of this Act or the  
16 Nursing Home Care Act shall be notified within 30 days after  
17 the effective date of this amendatory Act of the 97th General  
18 Assembly of the provisions contained in this Act, Section  
19 2-201.5 of the Nursing Home Care Act, and Section 2-201.5 of  
20 the ID/DD Community Care Act and shall be given 30 days after  
21 the date the fingerprint vendor is notified of the established  
22 fee to notify the Department of State Police of the fingerprint  
23 vendor's intent to seek certification. All participating  
24 fingerprint vendors shall comply with the established fee  
25 requirements within 30 days after being notified that a fee has



1 been set, regardless of the status of their application for  
2 certification. Certification qualifications shall include, but  
3 not be limited to, the following:

4 (1) two or more years of experience transmitting  
5 fingerprints electronically to the Department of State  
6 Police;

7 (2) successful transmission of the required data in a  
8 manner agreed on by the Department of Public Health and the  
9 Department of State Police;

10 (3) licensure by the State as a fingerprint vendor  
11 under the Private Detective, Private Alarm, Private  
12 Security, Fingerprint Vendor, and Locksmith Act of 2004;  
13 and

14 (4) an agreement to simultaneously provide fingerprint  
15 services under multiple Acts.

16 All administrative rules adopted under this Section shall  
17 be agreed upon by the Department of State Police and the  
18 Department of Public Health.

19 (225 ILCS 46/50)

20 Sec. 50. Health care employer files. The health care  
21 employer shall retain on file for a period of 5 years records  
22 of criminal records requests for all employees. The health care  
23 employer shall retain a copy of the disclosure and  
24 authorization forms, a copy of the fingerprint ~~livescan~~ request  
25 form, all notifications resulting from the fingerprint-based

1 criminal history records check and waiver, if appropriate, for  
2 the duration of the individual's employment. The files shall be  
3 subject to inspection by the agency responsible for inspecting,  
4 licensing, or certifying the health care employer. A fine of up  
5 to \$500 may be imposed by the appropriate agency for failure to  
6 maintain these records. The Department of Public Health must  
7 keep an electronic record of criminal history background checks  
8 for an individual for as long as the individual remains active  
9 on the Health Care Worker Registry.

10 (Source: P.A. 95-120, eff. 8-13-07.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law."