



Rep. Greg Harris

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09800HB4327ham003

LRB098 18752 KTG 57553 a

1 AMENDMENT TO HOUSE BILL 4327

2 AMENDMENT NO. _____. Amend House Bill 4327 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Adult Protective Services Act is amended by
5 changing Section 7.5 as follows:

6 (320 ILCS 20/7.5)

7 Sec. 7.5. Health Care Worker Registry.

8 (a) Reporting to the Registry. The Department on Aging
9 shall report to the Department of Public Health's Health Care
10 Worker Registry the identity and administrative finding of a
11 verified and substantiated decision of abuse, neglect, or
12 financial exploitation of an eligible adult under this Act that
13 is made against any caregiver, including consultants and
14 volunteers, employed by a provider licensed, certified, or
15 regulated by, or paid with public funds from, the Department of
16 Public Health, Healthcare and Family Services, or Human

1 Services, or the Department on Aging. For uncompensated or
2 privately paid caregivers, the Department on Aging shall report
3 only a verified and substantiated decision of significant
4 abuse, neglect, or financial exploitation of an eligible adult
5 under this Act. An administrative finding placed in the
6 Registry shall preclude any caregiver from providing direct
7 access or other services, including consulting and
8 volunteering, in a position with a provider that is licensed,
9 certified, or regulated by, or paid with public funds from or
10 on behalf of, the State of Illinois or any Department thereof,
11 that permits the caregiver direct access to an adult aged 60 or
12 older or an adult, over 18, with a disability or to that
13 individual's living quarters or personal, financial, or
14 medical records.

15 (b) Definitions. As used in this Section:

16 "Direct care" includes, but is not limited to, direct
17 access to an individual, his or her living quarters, or his or
18 her personal, financial, or medical records for the purpose of
19 providing nursing care or assistance with feeding, dressing,
20 movement, bathing, toileting, other personal needs and
21 activities of daily living, or assistance with financial
22 transactions.

23 "Privately paid caregiver" means any caregiver who has been
24 paid with resources other than public funds, regardless of
25 licensure, certification, or regulation by the State of
26 Illinois and any Department thereof. A privately paid caregiver

1 does not include any caregiver that has been licensed,
2 certified, or regulated by a State agency, or paid with public
3 funds.

4 "Significant" means a finding of abuse, neglect, or
5 financial exploitation as determined by the Department that (i)
6 represents a meaningful failure to adequately provide for, or a
7 material indifference to, the financial, health, safety, or
8 medical needs of an eligible adult or (ii) results in an
9 eligible adult's death or other serious deterioration of an
10 eligible adult's financial resources, physical condition, or
11 mental condition.

12 "Uncompensated caregiver" means a caregiver who, in an
13 informal capacity, assists an eligible adult with activities of
14 daily living, financial transactions, or chore housekeeping
15 type duties. "Uncompensated caregiver" does not refer to an
16 individual serving in a formal capacity as a volunteer with a
17 provider licensed, certified, or regulated by a State agency.

18 (c) Access to and use of the Registry. Access to the
19 Registry shall be limited to licensed, certified, or regulated
20 providers by the Department of Public Health, Healthcare and
21 Family Service, or Human Services, or the Department on Aging.
22 The State of Illinois, any Department thereof, or a provider
23 licensed, certified, or regulated, or paid with public funds
24 by, from, or on behalf of the Department of Public Health,
25 Healthcare and Family Services, or Human Services, or the
26 Department on Aging, shall not hire or compensate any person

1 seeking employment, retain any contractors, or accept any
2 volunteers to provide direct care without first conducting an
3 online check of the person through the Department of Public
4 Health's Health Care Worker Registry. The provider shall
5 maintain a copy of the results of the online check to
6 demonstrate compliance with this requirement. The provider is
7 prohibited from hiring, compensating, or accepting a person,
8 including as a consultant or volunteer, for whom the online
9 check reveals a verified and substantiated claim of abuse,
10 neglect, or financial exploitation, to provide direct access to
11 any adult aged 60 or older or any adult, over 18, with a
12 disability. Additionally, a provider is prohibited from
13 retaining a person for whom they gain knowledge of a verified
14 and substantiated claim of abuse, neglect, or financial
15 exploitation in a position that permits the caregiver direct
16 access to provide direct care to any adult aged 60 or older or
17 any adult, over 18, with a disability or direct access to that
18 individual's living quarters or personal, financial, or
19 medical records. Failure to comply with this requirement may
20 subject such a provider to corrective action by the appropriate
21 regulatory agency or other lawful remedies provided under the
22 applicable licensure, certification, or regulatory laws and
23 rules.

24 (d) Notice to caregiver. The Department on Aging shall
25 establish rules concerning notice to the caregiver in cases of
26 abuse, neglect, or financial exploitation.

1 (e) Notification to eligible adults, guardians, or agents.
2 As part of its investigation, the Department on Aging shall
3 notify an eligible adult, or an eligible adult's guardian or
4 agent, that a caregiver's name may be placed on the Registry
5 based on a finding as described in subsection (a) ~~(a-1)~~ of this
6 Section.

7 (f) Notification to employer. A provider licensed,
8 certified, or regulated by the Department of Public Health,
9 Healthcare and Family Services, or Human Services, or the
10 Department on Aging shall be notified of an administrative
11 finding against any caregiver who is an employee, consultant,
12 or volunteer of a verified and substantiated decision of abuse,
13 neglect, or financial exploitation of an eligible adult under
14 this Act. If there is an imminent risk of danger to the
15 eligible adult or an imminent risk of misuse of personal,
16 medical, or financial information, the caregiver shall
17 immediately be barred from direct access to the eligible adult,
18 his or her living quarters, or his or her personal, financial,
19 or medical records, pending the outcome of any challenge,
20 criminal prosecution, or other type of collateral action.

21 (g) Caregiver challenges. The Department on Aging shall
22 establish, by rule, procedures concerning caregiver
23 challenges.

24 (h) Caregiver's rights to collateral action. The
25 Department on Aging shall not make any report to the Registry
26 if a caregiver notifies the Department in writing, including

1 any supporting documentation, that he or she is formally
2 challenging an adverse employment action resulting from a
3 verified and substantiated finding of abuse, neglect, or
4 financial exploitation by complaint filed with the Illinois
5 Civil Service Commission, or by another means which seeks to
6 enforce the caregiver's rights pursuant to any applicable
7 collective bargaining agreement. If an action taken by an
8 employer against a caregiver as a result of a finding of abuse,
9 neglect, or financial exploitation is overturned through an
10 action filed with the Illinois Civil Service Commission or
11 under any applicable collective bargaining agreement after
12 that caregiver's name has already been sent to the Registry,
13 the caregiver's name shall be removed from the Registry.

14 (i) Removal from Registry. At any time after a report to
15 the Registry, but no more than once in each successive 3-year
16 period thereafter, for a maximum of 3 such requests, a
17 caregiver may write to the Director of the Department on Aging
18 to request removal of his or her name from the Registry in
19 relationship to a single incident. The caregiver shall bear the
20 burden of showing cause that establishes, by a preponderance of
21 the evidence, that removal of his or her name from the Registry
22 is in the public interest. Upon receiving such a request, the
23 Department on Aging shall conduct an investigation and consider
24 any evidentiary material provided. The Department shall issue a
25 decision either granting or denying removal within 60 calendar
26 days, and shall issue such decision to the caregiver and the

1 Registry. The waiver process at the Department of Public Health
2 does not apply to Registry reports from the Department on
3 Aging. The Department on Aging shall establish standards for
4 the removal of a name from the Registry by rule.

5 (j) Referral of Registry reports to health care facilities.
6 In the event an eligible adult receiving services from a
7 provider agency changes his or her residence from a domestic
8 living situation to that of a health care facility, the
9 provider agency shall use reasonable efforts to promptly inform
10 the health care facility and the appropriate Regional Long Term
11 Care Ombudsman about any Registry reports relating to the
12 eligible adult. For purposes of this Section, a health care
13 facility includes, but is not limited to, any residential
14 facility licensed, certified, or regulated by the Department of
15 Public Health, Healthcare and Family Services, or Human
16 Services.

17 (k) The Department on Aging shall have immunity, except for
18 willful or wanton misconduct, from any liability, civil or
19 criminal, for reporting information to the Health Care Worker
20 Registry.

21 (Source: P.A. 98-49, eff. 1-1-14; revised 11-12-13.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."