

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

(210 ILCS 28/85 rep.)

Section 5. The Abuse Prevention Review Team Act is amended by repealing Section 85.

Section 10. The Nursing Home Care Act is amended by changing Sections 2-110, 2-201.5, and 2-216 and by adding Section 2-201.6 as follows:

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

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

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

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

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

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

(a-5) If a resident of a licensed facility is an identified

offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act, to verify compliance with the requirements of Public Act 94-163 and this amendatory Act of the 94th General Assembly, or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.

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

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

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

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

(210 ILCS 45/2-201.5)

Sec. 2-201.5. Screening prior to admission.

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

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

emotional or physical hardship to the resident.

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

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

offenders.

(d) The Illinois Department of Public Health shall keep a continuing record of all residents determined to be identified offenders under Section 1-114.01 and shall report the number of identified offender residents annually to the General Assembly. ~~identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of the Department's administrative rules adopted pursuant to Section 3-202.3.~~

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

(210 ILCS 45/2-201.6 new)

Sec. 2-201.6. Criminal History Analysis.

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

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

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

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

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

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

(4) An interview with the identified offender.

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

(6) Consideration of the entire criminal history of the offender, including the date of the identified offender's last conviction relative to the date of admission to a

long-term care facility.

(7) If the identified offender is a convicted or registered sex offender, a review of any and all sex offender evaluations conducted on that offender. If there is no sex offender evaluation available, the Department shall provide for a sex offender evaluation to be conducted on the identified offender. If the convicted or registered sex offender is under supervision by the Illinois Department of Corrections or a county probation department, the sex offender evaluation shall be arranged by and at the expense of the supervising agency. All evaluations conducted on convicted or registered sex offenders under this Act shall be conducted by sex offender evaluators approved by the Sex Offender Management Board.

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

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

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

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

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

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

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

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

(210 ILCS 45/2-216)

Sec. 2-216. Notification of identified offenders. Every licensed facility shall provide to every prospective and current resident and resident's guardian, and to every facility employee, a written notice, prescribed by the Illinois Department of Public Health, advising the resident, guardian, or employee of his or her right to ask whether any residents of the facility are identified offenders. The notice shall also be prominently posted within every licensed facility. The notice shall include a statement that information regarding registered sex offenders may be obtained from the Illinois State Police website and that information regarding persons serving terms of parole or mandatory supervised release may be obtained from the Illinois Department of Corrections website. ~~If identified offenders are residents of the licensed facility, the licensed facility shall notify every resident or resident's guardian in writing that such offenders are residents of the licensed facility. The licensed facility shall also provide notice to its employees and to visitors to the facility that identified offenders are residents.~~

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

(210 ILCS 45/3-202.3 rep.)

(210 ILCS 45/3-202.4 rep.)

Section 11. The Nursing Home Care Act is amended by repealing Sections 3-202.3 and 3-202.4.

Section 15. The Probation and Probation Officers Act is amended by changing Section 12 as follows:

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

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

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

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

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

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

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

(6) To develop and operate programs of reasonable public or

community service for any persons ordered by the court to perform public or community service, providing, however, that no probation officer or any employee of a probation office acting in the course of his official duties shall be liable for any tortious acts of any person performing public or community service except for wilful misconduct or gross negligence on the part of the probation officer or employee.

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

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

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

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

(11) If a person on probation for a felony offense who is under the supervision of the probation officer becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or

Illinois Department of Human Services, the probation officer shall within 3 days of the person becoming a resident, notify the licensing or regulating Department and licensed or regulated facility and shall provide the licensed or regulated facility and licensing or regulating Department with copies of the following:

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

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

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

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

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