

**SB2575**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB2575**

Introduced 1/11/2012, by Sen. William Delgado

**SYNOPSIS AS INTRODUCED:**

225 ILCS 10/4.2

from Ch. 23, par. 2214.2

Amends the Child Care Act of 1969. Provides that no applicant may receive a license from the Illinois Department of Children and Family Services to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit a specified offenses, except for relatives who received a prior waiver for the initial placement of a relative child under the Children and Family Services Act. Effective immediately.

LRB097 14103 CEL 58773 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning regulation.

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

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

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

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

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

20 (1) murder;

21 (1.1) solicitation of murder;

22 (1.2) solicitation of murder for hire;

23 (1.3) intentional homicide of an unborn child;

- 1 (1.4) voluntary manslaughter of an unborn child;
- 2 (1.5) involuntary manslaughter;
- 3 (1.6) reckless homicide;
- 4 (1.7) concealment of a homicidal death;
- 5 (1.8) involuntary manslaughter of an unborn child;
- 6 (1.9) reckless homicide of an unborn child;
- 7 (1.10) drug-induced homicide;
- 8 (2) a sex offense under Article 11, except offenses
- 9 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
- 10 11-40, and 11-45;
- 11 (3) kidnapping;
- 12 (3.1) aggravated unlawful restraint;
- 13 (3.2) forcible detention;
- 14 (3.3) harboring a runaway;
- 15 (3.4) aiding and abetting child abduction;
- 16 (4) aggravated kidnapping;
- 17 (5) child abduction;
- 18 (6) aggravated battery of a child as described in
- 19 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 20 (7) criminal sexual assault;
- 21 (8) aggravated criminal sexual assault;
- 22 (8.1) predatory criminal sexual assault of a child;
- 23 (9) criminal sexual abuse;
- 24 (10) aggravated sexual abuse;
- 25 (11) heinous battery as described in Section 12-4.1 or
- 26 subdivision (a) (2) of Section 12-3.05;

1 (12) aggravated battery with a firearm as described in  
2 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or  
3 (e) (4) of Section 12-3.05;

4 (13) tampering with food, drugs, or cosmetics;

5 (14) drug induced infliction of great bodily harm as  
6 described in Section 12-4.7 or subdivision (g) (1) of  
7 Section 12-3.05;

8 (15) hate crime;

9 (16) stalking;

10 (17) aggravated stalking;

11 (18) threatening public officials;

12 (19) home invasion;

13 (20) vehicular invasion;

14 (21) criminal transmission of HIV;

15 (22) criminal abuse or neglect of an elderly or  
16 disabled person as described in Section 12-21 or subsection  
17 (b) of Section 12-4.4a;

18 (23) child abandonment;

19 (24) endangering the life or health of a child;

20 (25) ritual mutilation;

21 (26) ritualized abuse of a child;

22 (27) an offense in any other jurisdiction the elements  
23 of which are similar and bear a substantial relationship to  
24 any of the foregoing offenses.

25 (b-1) In addition to the other provisions of this Section,  
26 beginning January 1, 2004, no new applicant and, on the date of

1 licensure renewal, no current licensee may operate or receive a  
2 license from the Department to operate, no person may be  
3 employed by, and no adult person may reside in a child care  
4 facility licensed by the Department who has been convicted of  
5 committing or attempting to commit any of the following  
6 offenses or an offense in any other jurisdiction the elements  
7 of which are similar and bear a substantial relationship to any  
8 of the following offenses:

9 (I) BODILY HARM

- 10 (1) Felony aggravated assault.  
11 (2) Vehicular endangerment.  
12 (3) Felony domestic battery.  
13 (4) Aggravated battery.  
14 (5) Heinous battery.  
15 (6) Aggravated battery with a firearm.  
16 (7) Aggravated battery of an unborn child.  
17 (8) Aggravated battery of a senior citizen.  
18 (9) Intimidation.  
19 (10) Compelling organization membership of persons.  
20 (11) Abuse and criminal neglect of a long term care  
21 facility resident.  
22 (12) Felony violation of an order of protection.

23 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 1 (1) Felony unlawful use of weapons.
- 2 (2) Aggravated discharge of a firearm.
- 3 (3) Reckless discharge of a firearm.
- 4 (4) Unlawful use of metal piercing bullets.
- 5 (5) Unlawful sale or delivery of firearms on the
- 6 premises of any school.
- 7 (6) Disarming a police officer.
- 8 (7) Obstructing justice.
- 9 (8) Concealing or aiding a fugitive.
- 10 (9) Armed violence.
- 11 (10) Felony contributing to the criminal delinquency
- 12 of a juvenile.

13 (III) DRUG OFFENSES

- 14 (1) Possession of more than 30 grams of cannabis.
- 15 (2) Manufacture of more than 10 grams of cannabis.
- 16 (3) Cannabis trafficking.
- 17 (4) Delivery of cannabis on school grounds.
- 18 (5) Unauthorized production of more than 5 cannabis
- 19 sativa plants.
- 20 (6) Calculated criminal cannabis conspiracy.
- 21 (7) Unauthorized manufacture or delivery of controlled
- 22 substances.
- 23 (8) Controlled substance trafficking.

1           (9) Manufacture, distribution, or advertisement of  
2           look-alike substances.

3           (10) Calculated criminal drug conspiracy.

4           (11) Street gang criminal drug conspiracy.

5           (12) Permitting unlawful use of a building.

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

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

12          (15) Delivery of controlled substances.

13          (16) Sale or delivery of drug paraphernalia.

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

17          (18) Felony possession of a controlled substance.

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

20          (b-2) For child care facilities other than foster family  
21          homes, the Department may issue a new child care facility  
22          license to or renew the existing child care facility license of  
23          an applicant, a person employed by a child care facility, or an  
24          applicant who has an adult residing in a home child care  
25          facility who was convicted of an offense described in  
26          subsection (b-1), provided that all of the following

1 requirements are met:

2 (1) The relevant criminal offense occurred more than 5  
3 years prior to the date of application or renewal, except  
4 for drug offenses. The relevant drug offense must have  
5 occurred more than 10 years prior to the date of  
6 application or renewal, unless the applicant passed a drug  
7 test, arranged and paid for by the child care facility, no  
8 less than 5 years after the offense.

9 (2) The Department must conduct a background check and  
10 assess all convictions and recommendations of the child  
11 care facility to determine if waiver shall apply in  
12 accordance with Department administrative rules and  
13 procedures.

14 (3) The applicant meets all other requirements and  
15 qualifications to be licensed as the pertinent type of  
16 child care facility under this Act and the Department's  
17 administrative rules.

18 (c) In addition to the other provisions of this Section, no  
19 applicant may receive a license from the Department to operate  
20 a foster family home, and no adult person may reside in a  
21 foster family home licensed by the Department, who has been  
22 convicted of committing or attempting to commit any of the  
23 following offenses stipulated under the Criminal Code of 1961,  
24 the Cannabis Control Act, the Methamphetamine Control and  
25 Community Protection Act, and the Illinois Controlled  
26 Substances Act, except for relatives who received a prior



1 waiver for the initial placement of a relative child under  
2 Section 7 of the Children and Family Services Act:

3 (I) OFFENSES DIRECTED AGAINST THE PERSON

4 (A) KIDNAPPING AND RELATED OFFENSES

5 (1) Unlawful restraint.

6 (B) BODILY HARM

7 (2) Felony aggravated assault.

8 (3) Vehicular endangerment.

9 (4) Felony domestic battery.

10 (5) Aggravated battery.

11 (6) Heinous battery.

12 (7) Aggravated battery with a firearm.

13 (8) Aggravated battery of an unborn child.

14 (9) Aggravated battery of a senior citizen.

15 (10) Intimidation.

16 (11) Compelling organization membership of persons.

17 (12) Abuse and criminal neglect of a long term care  
18 facility resident.

19 (13) Felony violation of an order of protection.

20 (II) OFFENSES DIRECTED AGAINST PROPERTY

21 (14) Felony theft.

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

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

- 16 (27) Felony unlawful use of weapons.
- 17 (28) Aggravated discharge of a firearm.
- 18 (29) Reckless discharge of a firearm.
- 19 (30) Unlawful use of metal piercing bullets.
- 20 (31) Unlawful sale or delivery of firearms on the
- 21 premises of any school.
- 22 (32) Disarming a police officer.
- 23 (33) Obstructing justice.
- 24 (34) Concealing or aiding a fugitive.

1 (35) Armed violence.

2 (36) Felony contributing to the criminal delinquency  
3 of a juvenile.

4 (IV) DRUG OFFENSES

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

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

7 (39) Cannabis trafficking.

8 (40) Delivery of cannabis on school grounds.

9 (41) Unauthorized production of more than 5 cannabis  
10 sativa plants.

11 (42) Calculated criminal cannabis conspiracy.

12 (43) Unauthorized manufacture or delivery of  
13 controlled substances.

14 (44) Controlled substance trafficking.

15 (45) Manufacture, distribution, or advertisement of  
16 look-alike substances.

17 (46) Calculated criminal drug conspiracy.

18 (46.5) Streetgang criminal drug conspiracy.

19 (47) Permitting unlawful use of a building.

20 (48) Delivery of controlled, counterfeit, or  
21 look-alike substances to persons under age 18, or at truck  
22 stops, rest stops, or safety rest areas, or on school  
23 property.

24 (49) Using, engaging, or employing persons under 18 to

1 deliver controlled, counterfeit, or look-alike substances.

2 (50) Delivery of controlled substances.

3 (51) Sale or delivery of drug paraphernalia.

4 (52) Felony possession, sale, or exchange of  
5 instruments adapted for use of a controlled substance,  
6 methamphetamine, or cannabis by subcutaneous injection.

7 (53) Any violation of the Methamphetamine Control and  
8 Community Protection Act.

9 (d) Notwithstanding subsection (c), the Department may  
10 issue a new foster family home license or may renew an existing  
11 foster family home license of an applicant who was convicted of  
12 an offense described in subsection (c), provided all of the  
13 following requirements are met:

14 (1) The relevant criminal offense or offenses occurred  
15 more than 10 years prior to the date of application or  
16 renewal.

17 (2) The applicant had previously disclosed the  
18 conviction or convictions to the Department for purposes of  
19 a background check.

20 (3) After the disclosure, the Department either placed  
21 a child in the home or the foster family home license was  
22 issued.

23 (4) During the background check, the Department had  
24 assessed and waived the conviction in compliance with the  
25 existing statutes and rules in effect at the time of the  
26 waiver.

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

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

7           (Source: P.A. 96-1551, Article 1, Section 925, eff. 7-1-11;  
8           96-1551, Article 2, Section 990, eff. 7-1-11; revised 9-30-11.)

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