



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 2968

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2968 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Clinical Social Work and Social Work  
5 Practice Act is amended by changing Section 19 and by adding  
6 Section 9B as follows:

7 (225 ILCS 20/9B new)

8 Sec. 9B. Applicant convictions.

9 (a) The Department and the Board shall not require  
10 applicants to report information about the following and shall  
11 not consider the following criminal history records in  
12 connection with an application for licensure:

13 (1) Juvenile adjudications of delinquent minors as  
14 defined in Section 5-105 of the Juvenile Court Act of 1987,  
15 subject to the restrictions set forth in Section 5-130 of  
16 the Juvenile Court Act of 1987.

1           (2) Law enforcement records, court records, and  
2           conviction records of an individual who was 17 years old at  
3           the time of the offense and before January 1, 2014, unless  
4           the nature of the offense required the individual to be  
5           tried as an adult.

6           (3) Records of arrest not followed by a charge or  
7           conviction.

8           (4) Records of arrest where charges were dismissed  
9           unless related to the practice of the profession. However,  
10          applicants shall not be asked to report any arrests, and an  
11          arrest not followed by a conviction shall not be the basis  
12          of a denial and may be used only to assess an applicant's  
13          rehabilitation.

14          (5) Convictions overturned by a higher court.

15          (6) Convictions or arrests that have been sealed or  
16          expunged.

17          (b) Except as provided in Section 2105-165 of the  
18          Department of Professional Regulation Law, the Department,  
19          upon a finding that an applicant for a license was previously  
20          convicted of any felony or misdemeanor directly related to the  
21          practice of the profession, shall consider any mitigating  
22          factors and evidence of rehabilitation contained in such  
23          applicant's record, including any of the following factors and  
24          evidence, to determine whether a prior conviction will impair  
25          the ability of the applicant to engage in the position for  
26          which a license is sought:

1           (1) the lack of direct relation of the offense for  
2           which the applicant was previously convicted to the duties,  
3           functions, and responsibilities of the position for which a  
4           license is sought;

5           (2) whether 5 years since a felony conviction or 3  
6           years since release from confinement for the conviction,  
7           whichever is later, have passed without a subsequent  
8           conviction;

9           (3) if the applicant was previously licensed or  
10           employed in this State or other state or jurisdictions,  
11           then the lack of prior misconduct arising from or related  
12           to the licensed position or position of employment;

13           (4) the age of the person at the time of the criminal  
14           offense;

15           (5) successful completion of sentence and, for  
16           applicants serving a term of parole or probation, a  
17           progress report provided by the applicant's probation or  
18           parole officer that documents the applicant's compliance  
19           with conditions of supervision;

20           (6) evidence of the applicant's present fitness and  
21           professional character;

22           (7) evidence of rehabilitation or rehabilitative  
23           effort during or after incarceration, or during or after a  
24           term of supervision, including, but not limited to, a  
25           certificate of good conduct under Section 5-5.5-25 of the  
26           Unified Code of Corrections or a certificate of relief from

1 disabilities under Section 5-5.5-10 of the Unified Code of  
2 Corrections; and

3 (8) any other mitigating factors that contribute to the  
4 person's potential and current ability to perform the  
5 duties and responsibilities of the position for which a  
6 license or employment is sought.

7 (c) If the Department refuses to grant a license to an  
8 applicant based, in whole or in part, upon a conviction or  
9 convictions, then the Department shall notify the applicant of  
10 the denial in writing with the following included in the notice  
11 of denial:

12 (1) a statement about the decision to refuse to issue a  
13 license;

14 (2) a list of the convictions that the Department  
15 determined will impair the applicant's ability to engage in  
16 the position for which a license is sought;

17 (3) a list of the convictions that form the sole or  
18 partial basis for the refusal to issue a license; and

19 (4) a summary of the appeal process or the earliest the  
20 applicant may reapply for a license, whichever is  
21 applicable.

22 (d) No later than May 1 of each year, the Department must  
23 prepare, publicly announce, and publish a report of summary  
24 statistical information relating to new license applications  
25 during the preceding calendar year. Each report shall show, at  
26 a minimum:

1           (1) the number of applicants for a new license under  
2 this Act within the previous calendar year;

3           (2) the number of applicants for a new license under  
4 this Act within the previous calendar year who had any  
5 criminal conviction;

6           (3) the number of applicants for a new license under  
7 this Act in the previous calendar year who were granted a  
8 license;

9           (4) the number of applicants for a new license with a  
10 criminal conviction who were granted a license under this  
11 Act within the previous calendar year;

12           (5) the number of applicants for a new license under  
13 this Act within the previous calendar year who were denied  
14 a license;

15           (6) the number of applicants for a new license with a  
16 criminal conviction who were denied a license under this  
17 Act in the previous calendar year in part or in whole  
18 because of a prior conviction; and

19           (7) the number of licenses issued on probation under  
20 this Act in the previous calendar year to applicants with a  
21 criminal conviction.

22           (225 ILCS 20/19) (from Ch. 111, par. 6369)

23           (Section scheduled to be repealed on January 1, 2018)

24           Sec. 19. Grounds for disciplinary action.

25           (1) The Department may refuse to issue, refuse to renew,

1 suspend, or revoke any license, or may place on probation,  
2 censure, reprimand, or take other disciplinary or  
3 non-disciplinary action deemed appropriate by the Department,  
4 including the imposition of fines not to exceed \$10,000 for  
5 each violation, with regard to any license issued under the  
6 provisions of this Act for any one or a combination of the  
7 following reasons:

8 (a) material misstatements of fact in furnishing  
9 information to the Department or to any other State agency  
10 or in furnishing information to any insurance company with  
11 respect to a claim on behalf of a licensee or a patient;

12 (b) violations or negligent or intentional disregard  
13 of this Act, or any of the rules promulgated hereunder;

14 (c) for licensees, conviction of or entry of a plea of  
15 guilty or nolo contendere to any crime that is a felony  
16 under the laws of the United States or any state or  
17 territory thereof or that is a misdemeanor, of which an  
18 essential element is dishonesty, or any crime that is  
19 directly related to the practice of the clinical social  
20 work or social work professions; provisions set forth in  
21 Section 9B shall apply for applicants;

22 (d) making any misrepresentation for the purpose of  
23 obtaining licenses, or violating any provision of this Act  
24 or any of the rules promulgated hereunder;

25 (e) professional incompetence;

26 (f) malpractice;

1           (g) aiding or assisting another person in violating any  
2 provision of this Act or any rules;

3           (h) failing to provide information within 30 days in  
4 response to a written request made by the Department;

5           (i) engaging in dishonorable, unethical or  
6 unprofessional conduct of a character likely to deceive,  
7 defraud or harm the public as defined by the rules of the  
8 Department, or violating the rules of professional conduct  
9 adopted by the Board and published by the Department;

10           (j) habitual or excessive use or addiction to alcohol,  
11 narcotics, stimulants, or any other chemical agent or drug  
12 that results in a clinical social worker's or social  
13 worker's inability to practice with reasonable judgment,  
14 skill, or safety;

15           (k) discipline by another jurisdiction, if at least one  
16 of the grounds for the discipline is the same or  
17 substantially equivalent to those set forth in this  
18 Section;

19           (l) directly or indirectly giving to or receiving from  
20 any person, firm, corporation, partnership, or association  
21 any fee, commission, rebate or other form of compensation  
22 for any professional service not actually rendered.  
23 Nothing in this paragraph (l) affects any bona fide  
24 independent contractor or employment arrangements among  
25 health care professionals, health facilities, health care  
26 providers, or other entities, except as otherwise

1 prohibited by law. Any employment arrangements may include  
2 provisions for compensation, health insurance, pension, or  
3 other employment benefits for the provision of services  
4 within the scope of the licensee's practice under this Act.  
5 Nothing in this paragraph (l) shall be construed to require  
6 an employment arrangement to receive professional fees for  
7 services rendered;

8 (m) a finding by the Board that the licensee, after  
9 having the license placed on probationary status, has  
10 violated the terms of probation;

11 (n) abandonment, without cause, of a client;

12 (o) wilfully filing false reports relating to a  
13 licensee's practice, including but not limited to false  
14 records filed with Federal or State agencies or  
15 departments;

16 (p) wilfully failing to report an instance of suspected  
17 child abuse or neglect as required by the Abused and  
18 Neglected Child Reporting Act;

19 (q) being named as a perpetrator in an indicated report  
20 by the Department of Children and Family Services under the  
21 Abused and Neglected Child Reporting Act, and upon proof by  
22 clear and convincing evidence that the licensee has caused  
23 a child to be or failed to take reasonable steps to prevent  
24 a child from being an abused child or neglected child as  
25 defined in the Abused and Neglected Child Reporting Act;

26 (r) physical illness, mental illness, or any other



1           impairment or disability, including, but not limited to,  
2           deterioration through the aging process, or loss of motor  
3           skills that results in the inability to practice the  
4           profession with reasonable judgment, skill or safety;

5           (s) solicitation of professional services by using  
6           false or misleading advertising; or

7           (t) violation of the Health Care Worker Self-Referral  
8           Act.

9           (2) (Blank).

10          (3) The determination by a court that a licensee is subject  
11          to involuntary admission or judicial admission as provided in  
12          the Mental Health and Developmental Disabilities Code, will  
13          result in an automatic suspension of his license. Such  
14          suspension will end upon a finding by a court that the licensee  
15          is no longer subject to involuntary admission or judicial  
16          admission and issues an order so finding and discharging the  
17          patient, and upon the recommendation of the Board to the  
18          Secretary that the licensee be allowed to resume professional  
19          practice.

20          (4) The Department may refuse to issue or renew or may  
21          suspend the license of a person who (i) fails to file a return,  
22          pay the tax, penalty, or interest shown in a filed return, or  
23          pay any final assessment of tax, penalty, or interest, as  
24          required by any tax Act administered by the Department of  
25          Revenue, until the requirements of the tax Act are satisfied or  
26          (ii) has failed to pay any court-ordered child support as

1 determined by a court order or by referral from the Department  
2 of Healthcare and Family Services.

3 (5) In enforcing this Section, the Board upon a showing of  
4 a possible violation may compel a person licensed to practice  
5 under this Act, or who has applied for licensure or  
6 certification pursuant to this Act, to submit to a mental or  
7 physical examination, or both, as required by and at the  
8 expense of the Department. The examining physicians shall be  
9 those specifically designated by the Board. The Board or the  
10 Department may order the examining physician to present  
11 testimony concerning this mental or physical examination of the  
12 licensee or applicant. No information shall be excluded by  
13 reason of any common law or statutory privilege relating to  
14 communications between the licensee or applicant and the  
15 examining physician. The person to be examined may have, at his  
16 or her own expense, another physician of his or her choice  
17 present during all aspects of the examination. Failure of any  
18 person to submit to a mental or physical examination, when  
19 directed, shall be grounds for suspension of a license until  
20 the person submits to the examination if the Board finds, after  
21 notice and hearing, that the refusal to submit to the  
22 examination was without reasonable cause.

23 If the Board finds a person unable to practice because of  
24 the reasons set forth in this Section, the Board may require  
25 that person to submit to care, counseling, or treatment by  
26 physicians approved or designated by the Board, as a condition,

1 term, or restriction for continued, reinstated, or renewed  
2 licensure to practice; or, in lieu of care, counseling or  
3 treatment, the Board may recommend to the Department to file a  
4 complaint to immediately suspend, revoke or otherwise  
5 discipline the license of the person. Any person whose license  
6 was granted, continued, reinstated, renewed, disciplined or  
7 supervised subject to such terms, conditions or restrictions,  
8 and who fails to comply with such terms, conditions, or  
9 restrictions, shall be referred to the Secretary for a  
10 determination as to whether the person shall have his or her  
11 license suspended immediately, pending a hearing by the Board.

12 In instances in which the Secretary immediately suspends a  
13 person's license under this Section, a hearing on that person's  
14 license must be convened by the Board within 30 days after the  
15 suspension and completed without appreciable delay. The Board  
16 shall have the authority to review the subject person's record  
17 of treatment and counseling regarding the impairment, to the  
18 extent permitted by applicable federal statutes and  
19 regulations safeguarding the confidentiality of medical  
20 records.

21 A person licensed under this Act and affected under this  
22 Section shall be afforded an opportunity to demonstrate to the  
23 Board that he or she can resume practice in compliance with  
24 acceptable and prevailing standards under the provisions of his  
25 or her license.

26 (Source: P.A. 98-756, eff. 7-16-14.)

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