



Rep. Stephanie A. Kifowit

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1 AMENDMENT TO HOUSE BILL 4100

2 AMENDMENT NO. _____. Amend House Bill 4100 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Health Care Violence Prevention Act.

6 Section 5. Definitions. As used in this Act:

7 "Health care worker" means a person licensed under the
8 Nurse Practice Act, the Medical Practice Act of 1987, the
9 Pharmacy Practice Act, and the Physician Assistant Practice Act
10 of 1987.

11 "Nurse" means a person who is licensed to practice nursing
12 under the Nurse Practice Act.

13 "Retail health care facility" means an institution, place,
14 or building, or any portion thereof, that:

15 (1) is devoted to the maintenance and operation of a
16 facility for the performance of health care services and is

1 located within a retail store at a specific location;

2 (2) does not provide surgical services or any form of
3 general anesthesia;

4 (3) does not provide beds or other accommodations for
5 either the long-term or overnight stay of patients; and

6 (4) discharges individual patients in an ambulatory
7 condition without danger to the continued well-being of the
8 patients and transfers non-ambulatory patients to
9 hospitals.

10 "Retail health care facility" does not include hospitals,
11 long-term care facilities, ambulatory treatment centers, blood
12 banks, clinical laboratories, offices of physicians, advanced
13 practice registered nurses, podiatrists, and physician
14 assistants, and pharmacies that provide limited health care
15 services.

16 Section 10. Application. This Act applies to a retail
17 health care facility, a hospital or facility subject to the
18 Hospital Licensing Act, the University of Illinois Hospital
19 Act, the MC/DD Act, or the ID/DD Community Care Act, and a
20 veterans home as defined in the Department of Veterans Affairs
21 Act.

22 This Act does not apply to an owner of an institution,
23 place, building, or any portion of the institution, place, or
24 building, who directly or indirectly leases space that is used
25 by the lessee to operate a retail health care facility.

1 Section 15. Workplace safety.

2 (a) A nurse that contacts law enforcement or files a
3 complaint against a patient or individual because of workplace
4 violence shall provide notice to management of the retail
5 health care facility, hospital, facility licensed under the
6 MC/DD Act or ID/DD Community Care Act, or veterans home in
7 which he or she is employed within 3 days after contacting law
8 enforcement or filing the complaint.

9 (b) No management of a retail health care facility,
10 hospital, facility licensed under the MC/DD Act or ID/DD
11 Community Care Act, or veterans home may discourage a health
12 care worker from exercising his or her right to contact law
13 enforcement or file a complaint because of workplace violence.

14 (c) A retail health care facility, hospital, facility
15 licensed under the MC/DD Act or ID/DD Community Care Act, or
16 veterans home that employs a nurse licensed under the Nurse
17 Practice Act shall display a notice stating that verbal
18 aggression will not be tolerated and physical assault will be
19 prosecuted to the fullest extent of the law.

20 (d) The retail health care facility, hospital, facility
21 licensed under the MC/DD Act or ID/DD Community Care Act, or
22 veterans home shall offer mental health services for a health
23 care worker that is a victim of workplace violence.

24 Section 20. Workplace violence prevention program.

1 (a) A retail health care facility, hospital, facility
2 licensed under the MC/DD Act or ID/DD Community Care Act, or
3 veterans home shall create a workplace violence prevention
4 program that references Occupational Safety and Health
5 Administration guidelines for preventing workplace violence
6 for health care and social service workers and includes:

7 (1) the following text: "Workplace violence is any act
8 or threat of physical violence, harassment, intimidation,
9 or other threatening disruptive behavior that occurs at the
10 work site. It ranges from threats and verbal abuse to
11 physical assaults and even homicide. It can affect and
12 involve employees, clients, customers and visitors.";

13 (2) the following classifications of workplace
14 violence as one of 4 possible types:

15 (A) "Type 1 violence" means workplace violence
16 committed by a person who has no legitimate business at
17 the work site and includes violent acts by anyone who
18 enters the workplace with the intent to commit a crime.

19 (B) "Type 2 violence" means workplace violence
20 directed at employees by customers, clients, patients,
21 students, inmates, visitors, or other individuals
22 accompanying a patient.

23 (C) "Type 3 violence" means workplace violence
24 against an employee by a present or former employee,
25 supervisor, or manager.

26 (D) "Type 4 violence" means workplace violence

1 committed in the workplace by someone who does not work
2 there, but has or is known to have had a personal
3 relationship with an employee.

4 (3) management commitment and worker participation,
5 including, but not limited to, nurses;

6 (4) worksite analysis and identification of potential
7 hazards;

8 (5) hazard prevention and control;

9 (6) safety and health training with required hours
10 determined by rule; and

11 (7) recordkeeping and evaluation of the violence
12 prevention program.

13 The development of a workplace violence prevention program
14 shall include, but not be limited to, the recommendations of
15 the Occupational Safety and Health Administration guidelines
16 for preventing workplace violence for health care and social
17 service workers. The Department of Public Health and the
18 Department of Veterans' Affairs may by rule adopt additional
19 criteria for workplace violence prevention programs.

20 Section 25. Whistleblower protection.

21 (a) In this Section, "retaliatory action" means the
22 reprimand, discharge, suspension, demotion, denial of
23 promotion or transfer, or change in the terms and conditions of
24 employment of any nurse employed by a retail health care
25 facility, hospital, facility licensed under the MC/DD Act or

1 ID/DD Community Care Act, or veterans home that is taken in
2 retaliation for the nurse's involvement in a protected activity
3 as set forth in paragraphs (1) through (4) of subsection (b).

4 (b) A retail health care facility, hospital, facility
5 licensed under the MC/DD Act or ID/DD Community Care Act, or
6 veterans home may not take any retaliatory action against a
7 nurse employed by the retail health care facility, hospital,
8 facility licensed under the MC/DD Act or ID/DD Community Care
9 Act, or veterans home because the nurse does any of the
10 following:

11 (1) discloses or threatens to disclose to a supervisor
12 or to a public body an activity, policy, or practice
13 implemented by or inaction by a retail health care
14 facility, hospital, facility licensed under the MC/DD Act
15 or ID/DD Community Care Act, or veterans home that the
16 nurse reasonably believes is in violation of a law, rule,
17 or regulation;

18 (2) provides information to or testifies before any
19 public body conducting an investigation, hearing, or
20 inquiry into any violation of a law, rule, or regulation by
21 a retail health care facility, hospital, facility licensed
22 under the MC/DD Act or ID/DD Community Care Act, or
23 veterans home;

24 (3) files a complaint against a patient or individual
25 for assault that took place while working as a nurse in the
26 retail health care facility, hospital, facility licensed

1 under the MC/DD Act or ID/DD Community Care Act, or
2 veterans home; or

3 (4) assists or participates in a proceeding to enforce
4 the provisions of this Act.

5 (c) A violation of this Section may be established only
6 upon a finding that (i) the nurse employed by the retail health
7 care facility, hospital, facility licensed under the MC/DD Act
8 or ID/DD Community Care Act, or veterans home engaged in
9 conduct described in subsection (b) of this Section, and (ii)
10 this conduct was a contributing factor in the retaliatory
11 action alleged by the nurse. There is no violation of this
12 Section, however, if the retail health care facility, hospital,
13 facility licensed under the MC/DD Act or ID/DD Community Care
14 Act, or veterans home demonstrates by clear and convincing
15 evidence that it would have taken the same unfavorable
16 personnel action in the absence of that conduct.

17 (d) The nurse employed by the retail health care facility,
18 hospital, facility licensed under the MC/DD Act or ID/DD
19 Community Care Act, or veterans home may be awarded all
20 remedies necessary to make the nurse whole and to prevent
21 future violations of this Section. Remedies imposed by the
22 court may include, but are not limited to, all of the
23 following:

24 (1) Reinstatement of the nurse to either the same
25 position held before the retaliatory action or to an
26 equivalent position.

1 (2) Two times the amount of back pay.

2 (3) Interest on the back pay.

3 (4) Reinstatement of full fringe benefits and
4 seniority rights.

5 (5) Payment of reasonable costs and attorney's fees.

6 (f) Nothing in this Section shall be deemed to diminish the
7 rights, privileges, or remedies of a nurse employed by a retail
8 health care facility, hospital, facility licensed under the
9 MC/DD Act or ID/DD Community Care Act, or veterans home under
10 any other federal or State law, rule, or regulation or under
11 any employment contract.

12 Section 90. The Department of Veterans Affairs Act is
13 amended by changing Section 2.07 as follows:

14 (20 ILCS 2805/2.07) (from Ch. 126 1/2, par. 67.07)

15 Sec. 2.07. The Department shall employ and maintain
16 sufficient and qualified staff at the veterans' homes (i) to
17 fill all beds, subject to appropriation, and (ii) to fulfill
18 the requirements of this Act. The Department shall report to
19 the General Assembly, by January 1 and July 1 of each year, the
20 number of staff employed in providing direct patient care at
21 their veterans' homes, the compliance or noncompliance with
22 staffing standards established by the United States Department
23 of Veterans Affairs for such care, and in the event of
24 noncompliance with such standards, the number of staff required

1 for compliance. For purposes of this Section, a nurse who has a
2 license application pending with the State shall not be deemed
3 unqualified by the Department if the nurse is in compliance
4 with Section 50-15 of the Nurse Practice Act.

5 A veterans home is subject to the Health Care Violence
6 Prevention Act.

7 (Source: P.A. 96-699, eff. 8-25-09; 97-297, eff. 1-1-12.)

8 Section 95. The University of Illinois Hospital Act is
9 amended by adding Section 10 as follows:

10 (110 ILCS 330/10 new)

11 Sec. 10. Compliance with the Health Care Violence
12 Prevention Act. The University of Illinois Hospital shall
13 comply with the Health Care Violence Prevention Act.

14 Section 100. The MC/DD Act is amended by adding Section
15 2-219 as follows:

16 (210 ILCS 46/2-219 new)

17 Sec. 2-219. Compliance with the Health Care Violence
18 Prevention Act. A facility licensed under this Act shall comply
19 with the Health Care Violence Prevention Act.

20 Section 105. The ID/DD Community Care Act is amended by
21 adding Section 2-219 as follows:

1 (210 ILCS 47/2-219 new)

2 Sec. 2-219. Compliance with the Health Care Violence
3 Prevention Act. A facility licensed under this Act shall comply
4 with the Health Care Violence Prevention Act.

5 Section 110. The Hospital Licensing Act is amended by
6 adding Section 9.8 as follows:

7 (210 ILCS 85/9.8 new)

8 Sec. 9.8. Compliance with the Health Care Violence
9 Prevention Act. A hospital licensed under this Act shall comply
10 with the Health Care Violence Prevention Act.

11 Section 115. The Unified Code of Corrections is amended by
12 changing Section 3-6-2 as follows:

13 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

14 Sec. 3-6-2. Institutions and Facility Administration.

15 (a) Each institution and facility of the Department shall
16 be administered by a chief administrative officer appointed by
17 the Director. A chief administrative officer shall be
18 responsible for all persons assigned to the institution or
19 facility. The chief administrative officer shall administer
20 the programs of the Department for the custody and treatment of
21 such persons.

1 (b) The chief administrative officer shall have such
2 assistants as the Department may assign.

3 (c) The Director or Assistant Director shall have the
4 emergency powers to temporarily transfer individuals without
5 formal procedures to any State, county, municipal or regional
6 correctional or detention institution or facility in the State,
7 subject to the acceptance of such receiving institution or
8 facility, or to designate any reasonably secure place in the
9 State as such an institution or facility and to make transfers
10 thereto. However, transfers made under emergency powers shall
11 be reviewed as soon as practicable under Article 8, and shall
12 be subject to Section 5-905 of the Juvenile Court Act of 1987.
13 This Section shall not apply to transfers to the Department of
14 Human Services which are provided for under Section 3-8-5 or
15 Section 3-10-5.

16 (d) The Department shall provide educational programs for
17 all committed persons so that all persons have an opportunity
18 to attain the achievement level equivalent to the completion of
19 the twelfth grade in the public school system in this State.
20 Other higher levels of attainment shall be encouraged and
21 professional instruction shall be maintained wherever
22 possible. The Department may establish programs of mandatory
23 education and may establish rules and regulations for the
24 administration of such programs. A person committed to the
25 Department who, during the period of his or her incarceration,
26 participates in an educational program provided by or through

1 the Department and through that program is awarded or earns the
2 number of hours of credit required for the award of an
3 associate, baccalaureate, or higher degree from a community
4 college, college, or university located in Illinois shall
5 reimburse the State, through the Department, for the costs
6 incurred by the State in providing that person during his or
7 her incarceration with the education that qualifies him or her
8 for the award of that degree. The costs for which reimbursement
9 is required under this subsection shall be determined and
10 computed by the Department under rules and regulations that it
11 shall establish for that purpose. However, interest at the rate
12 of 6% per annum shall be charged on the balance of those costs
13 from time to time remaining unpaid, from the date of the
14 person's parole, mandatory supervised release, or release
15 constituting a final termination of his or her commitment to
16 the Department until paid.

17 (d-5) A person committed to the Department is entitled to
18 confidential testing for infection with human immunodeficiency
19 virus (HIV) and to counseling in connection with such testing,
20 with no copay to the committed person. A person committed to
21 the Department who has tested positive for infection with HIV
22 is entitled to medical care while incarcerated, counseling, and
23 referrals to support services, in connection with that positive
24 test result. Implementation of this subsection (d-5) is subject
25 to appropriation.

26 (e) A person committed to the Department who becomes in

1 need of medical or surgical treatment but is incapable of
2 giving consent thereto shall receive such medical or surgical
3 treatment by the chief administrative officer consenting on the
4 person's behalf. Before the chief administrative officer
5 consents, he or she shall obtain the advice of one or more
6 physicians licensed to practice medicine in all its branches in
7 this State. If such physician or physicians advise:

8 (1) that immediate medical or surgical treatment is
9 required relative to a condition threatening to cause
10 death, damage or impairment to bodily functions, or
11 disfigurement; and

12 (2) that the person is not capable of giving consent to
13 such treatment; the chief administrative officer may give
14 consent for such medical or surgical treatment, and such
15 consent shall be deemed to be the consent of the person for
16 all purposes, including, but not limited to, the authority
17 of a physician to give such treatment.

18 (e-5) If a physician providing medical care to a committed
19 person on behalf of the Department advises the chief
20 administrative officer that the committed person's mental or
21 physical health has deteriorated as a result of the cessation
22 of ingestion of food or liquid to the point where medical or
23 surgical treatment is required to prevent death, damage, or
24 impairment to bodily functions, the chief administrative
25 officer may authorize such medical or surgical treatment.

26 (f) In the event that the person requires medical care and

1 treatment at a place other than the institution or facility,
2 the person may be removed therefrom under conditions prescribed
3 by the Department. The Department shall require the committed
4 person receiving medical or dental services on a non-emergency
5 basis to pay a \$5 co-payment to the Department for each visit
6 for medical or dental services. The amount of each co-payment
7 shall be deducted from the committed person's individual
8 account. A committed person who has a chronic illness, as
9 defined by Department rules and regulations, shall be exempt
10 from the \$5 co-payment for treatment of the chronic illness. A
11 committed person shall not be subject to a \$5 co-payment for
12 follow-up visits ordered by a physician, who is employed by, or
13 contracts with, the Department. A committed person who is
14 indigent is exempt from the \$5 co-payment and is entitled to
15 receive medical or dental services on the same basis as a
16 committed person who is financially able to afford the
17 co-payment. For purposes of this Section only, "indigent" means
18 a committed person who has \$20 or less in his or her Inmate
19 Trust Fund at the time of such services and for the 30 days
20 prior to such services. Notwithstanding any other provision in
21 this subsection (f) to the contrary, any person committed to
22 any facility operated by the Department of Juvenile Justice, as
23 set forth in Section 3-2.5-15 of this Code, is exempt from the
24 co-payment requirement for the duration of confinement in those
25 facilities.

26 (f-5) If a person receives medical care and treatment at a

1 place other than an institution or facility of the Department
2 of Corrections, a county, or a municipality, then the
3 institution or facility shall:

4 (1) to the greatest extent practicable, notify the
5 hospital or medical facility that is treating the person
6 prior to the person's visit, particularly if the person is
7 a potentially violent individual;

8 (2) to the greatest extent practicable, ensure the
9 transferred person is accompanied by all available medical
10 records;

11 (3) provide 2 guards to accompany any person determined
12 by a law enforcement agency to be potentially violent or
13 who has been arrested for a violent crime at all times
14 during the visit to the hospital or medical facility; and

15 (4) prevent anyone, except medical personnel, from
16 visiting the person unless death is imminent. If death is
17 imminent:

18 (A) the hospital or medical facility shall follow
19 the rules required by the facility or institution for
20 visitation;

21 (B) the name of the visitor must be listed per the
22 facility's or institution's documentation;

23 (C) the visitor shall submit to the search of his
24 or her person or any personal property under his or her
25 control at any time;

26 (D) the visitor and person shall not have access to

1 a telephone; and

2 (E) only one visitor may be allowed to meet with
3 the person at a time.

4 If a person receives medical care and treatment at a place
5 other than an institution or facility of the Department of
6 Corrections, a county, or a municipality, then the institution
7 or facility shall ensure the person is wearing security
8 restraints on wrists and ankles at all times.

9 The hospital or medical facility shall establish protocols
10 for the receipt of incarcerated persons, particularly with
11 regard to potentially violent individuals.

12 (f-10) If a person receives medical care and treatment at a
13 place other than an institution or facility of the Department
14 of Juvenile Justice, then the institution or facility shall:

15 (1) to the greatest extent practicable, notify the
16 hospital or medical facility that is treating the person
17 prior to the person's visit, particularly if the person is
18 a potentially violent individual;

19 (2) to the greatest extent practicable, ensure the
20 transferred person is accompanied by all available medical
21 records;

22 (3) to the greatest extent practicable, provide 2
23 guards to accompany the person at all times during the
24 visit to the hospital or medical facility; and

25 (4) prevent anyone, except medical personnel, parents,
26 and legal guardians, from visiting the person if death is

1 not imminent. If death is imminent, anyone may visit the
2 person. In any situation in which a person is being
3 visited:

4 (A) the hospital or medical facility shall follow
5 the rules required by the facility or institution for
6 visitation;

7 (B) the name of the visitor must be listed per the
8 facility's or institution's documentation;

9 (C) the visitor shall submit to the search of his
10 or her person or any personal property under his or her
11 control at any time;

12 (D) the visitor and person shall not have access to
13 a telephone; and

14 (E) only one visitor may be allowed to meet with
15 the person at a time.

16 If a person receives medical care and treatment at a place
17 other than an institution or facility of the Department of
18 Juvenile Justice, then the institution or facility shall ensure
19 the person is wearing security restraints on wrists and ankles.
20 The decision to restrain a juvenile by wrists and ankles shall
21 be collaboratively made by the medical team and the security
22 personnel, but the medical team shall make the final decision.

23 The hospital or medical facility shall establish protocols
24 for the receipt of incarcerated persons, particularly with
25 regard to potentially violent individuals.

26 (g) Any person having sole custody of a child at the time

1 of commitment or any woman giving birth to a child after her
2 commitment, may arrange through the Department of Children and
3 Family Services for suitable placement of the child outside of
4 the Department of Corrections. The Director of the Department
5 of Corrections may determine that there are special reasons why
6 the child should continue in the custody of the mother until
7 the child is 6 years old.

8 (h) The Department may provide Family Responsibility
9 Services which may consist of, but not be limited to the
10 following:

11 (1) family advocacy counseling;

12 (2) parent self-help group;

13 (3) parenting skills training;

14 (4) parent and child overnight program;

15 (5) parent and child reunification counseling, either
16 separately or together, preceding the inmate's release;
17 and

18 (6) a prerelease reunification staffing involving the
19 family advocate, the inmate and the child's counselor, or
20 both and the inmate.

21 (i) (Blank).

22 (j) Any person convicted of a sex offense as defined in the
23 Sex Offender Management Board Act shall be required to receive
24 a sex offender evaluation prior to release into the community
25 from the Department of Corrections. The sex offender evaluation
26 shall be conducted in conformance with the standards and

1 guidelines developed under the Sex Offender Management Board
2 Act and by an evaluator approved by the Board.

3 (k) Any minor committed to the Department of Juvenile
4 Justice for a sex offense as defined by the Sex Offender
5 Management Board Act shall be required to undergo sex offender
6 treatment by a treatment provider approved by the Board and
7 conducted in conformance with the Sex Offender Management Board
8 Act.

9 (l) Prior to the release of any inmate committed to a
10 facility of the Department or the Department of Juvenile
11 Justice, the Department must provide the inmate with
12 appropriate information verbally, in writing, by video, or
13 other electronic means, concerning HIV and AIDS. The Department
14 shall develop the informational materials in consultation with
15 the Department of Public Health. At the same time, the
16 Department must also offer the committed person the option of
17 testing for infection with human immunodeficiency virus (HIV),
18 with no copayment for the test. Pre-test information shall be
19 provided to the committed person and informed consent obtained
20 as required in subsection (d) of Section 3 and Section 5 of the
21 AIDS Confidentiality Act. The Department may conduct opt-out
22 HIV testing as defined in Section 4 of the AIDS Confidentiality
23 Act. If the Department conducts opt-out HIV testing, the
24 Department shall place signs in English, Spanish and other
25 languages as needed in multiple, highly visible locations in
26 the area where HIV testing is conducted informing inmates that

1 they will be tested for HIV unless they refuse, and refusal or
2 acceptance of testing shall be documented in the inmate's
3 medical record. The Department shall follow procedures
4 established by the Department of Public Health to conduct HIV
5 testing and testing to confirm positive HIV test results. All
6 testing must be conducted by medical personnel, but pre-test
7 and other information may be provided by committed persons who
8 have received appropriate training. The Department, in
9 conjunction with the Department of Public Health, shall develop
10 a plan that complies with the AIDS Confidentiality Act to
11 deliver confidentially all positive or negative HIV test
12 results to inmates or former inmates. Nothing in this Section
13 shall require the Department to offer HIV testing to an inmate
14 who is known to be infected with HIV, or who has been tested
15 for HIV within the previous 180 days and whose documented HIV
16 test result is available to the Department electronically. The
17 testing provided under this subsection (1) shall consist of a
18 test approved by the Illinois Department of Public Health to
19 determine the presence of HIV infection, based upon
20 recommendations of the United States Centers for Disease
21 Control and Prevention. If the test result is positive, a
22 reliable supplemental test based upon recommendations of the
23 United States Centers for Disease Control and Prevention shall
24 be administered.

25 Prior to the release of an inmate who the Department knows
26 has tested positive for infection with HIV, the Department in a

1 timely manner shall offer the inmate transitional case
2 management, including referrals to other support services.

3 (m) The chief administrative officer of each institution or
4 facility of the Department shall make a room in the institution
5 or facility available for addiction recovery services to be
6 provided to committed persons on a voluntary basis. The
7 services shall be provided for one hour once a week at a time
8 specified by the chief administrative officer of the
9 institution or facility if the following conditions are met:

10 (1) the addiction recovery service contacts the chief
11 administrative officer to arrange the meeting;

12 (2) the committed person may attend the meeting for
13 addiction recovery services only if the committed person
14 uses pre-existing free time already available to the
15 committed person;

16 (3) all disciplinary and other rules of the institution
17 or facility remain in effect;

18 (4) the committed person is not given any additional
19 privileges to attend addiction recovery services;

20 (5) if the addiction recovery service does not arrange
21 for scheduling a meeting for that week, no addiction
22 recovery services shall be provided to the committed person
23 in the institution or facility for that week;

24 (6) the number of committed persons who may attend an
25 addiction recovery meeting shall not exceed 40 during any
26 session held at the correctional institution or facility;

1 (7) a volunteer seeking to provide addiction recovery
2 services under this subsection (m) must submit an
3 application to the Department of Corrections under
4 existing Department rules and the Department must review
5 the application within 60 days after submission of the
6 application to the Department; and

7 (8) each institution and facility of the Department
8 shall manage the addiction recovery services program
9 according to its own processes and procedures.

10 For the purposes of this subsection (m), "addiction
11 recovery services" means recovery services for alcoholics and
12 addicts provided by volunteers of recovery support services
13 recognized by the Department of Human Services.

14 (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,
15 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;
16 97-813, eff. 7-13-12.)".