

HB5228



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5228

by Rep. John Connor

SYNOPSIS AS INTRODUCED:

225 ILCS 46/15

Amends the Health Care Worker Background Check Act. Provides that "health care employer" includes the Department of Corrections or a third-party vendor employing certified nursing assistants working with the Department of Corrections. Effective immediately.

LRB101 19289 SPS 68755 b

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 Health Care Worker Background Check Act is
5 amended by changing Section 15 as follows:

6 (225 ILCS 46/15)

7 Sec. 15. Definitions. In this Act:

8 "Applicant" means an individual enrolling in a training
9 program, seeking employment, whether paid or on a volunteer
10 basis, with a health care employer who has received a bona fide
11 conditional offer of employment.

12 "Conditional offer of employment" means a bona fide offer
13 of employment by a health care employer to an applicant, which
14 is contingent upon the receipt of a report from the Department
15 of Public Health indicating that the applicant does not have a
16 record of conviction of any of the criminal offenses enumerated
17 in Section 25.

18 "Department" means the Department of Public Health.

19 "Direct care" means the provision of nursing care or
20 assistance with feeding, dressing, movement, bathing,
21 toileting, or other personal needs, including home services as
22 defined in the Home Health, Home Services, and Home Nursing
23 Agency Licensing Act. The entity responsible for inspecting and

1 licensing, certifying, or registering the health care employer
2 may, by administrative rule, prescribe guidelines for
3 interpreting this definition with regard to the health care
4 employers that it licenses.

5 "Director" means the Director of Public Health.

6 "Disqualifying offenses" means those offenses set forth in
7 Section 25 of this Act.

8 "Employee" means any individual hired, employed, or
9 retained, whether paid or on a volunteer basis, to which this
10 Act applies.

11 "Finding" means the Department's determination of whether
12 an allegation is verified and substantiated.

13 "Fingerprint-based criminal history records check" means a
14 livescan fingerprint-based criminal history records check
15 submitted as a fee applicant inquiry in the form and manner
16 prescribed by the Department of State Police.

17 "Health care employer" means:

18 (1) the owner or licensee of any of the following:

19 (i) a community living facility, as defined in the
20 Community Living Facilities Act;

21 (ii) a life care facility, as defined in the Life
22 Care Facilities Act;

23 (iii) a long-term care facility;

24 (iv) a home health agency, home services agency, or
25 home nursing agency as defined in the Home Health, Home
26 Services, and Home Nursing Agency Licensing Act;

1 (v) a hospice care program or volunteer hospice
2 program, as defined in the Hospice Program Licensing
3 Act;

4 (vi) a hospital, as defined in the Hospital
5 Licensing Act;

6 (vii) (blank);

7 (viii) a nurse agency, as defined in the Nurse
8 Agency Licensing Act;

9 (ix) a respite care provider, as defined in the
10 Respite Program Act;

11 (ix-a) an establishment licensed under the
12 Assisted Living and Shared Housing Act;

13 (x) a supportive living program, as defined in the
14 Illinois Public Aid Code;

15 (xi) early childhood intervention programs as
16 described in 59 Ill. Adm. Code 121;

17 (xii) the University of Illinois Hospital,
18 Chicago;

19 (xiii) programs funded by the Department on Aging
20 through the Community Care Program;

21 (xiv) programs certified to participate in the
22 Supportive Living Program authorized pursuant to
23 Section 5-5.01a of the Illinois Public Aid Code;

24 (xv) programs listed by the Emergency Medical
25 Services (EMS) Systems Act as Freestanding Emergency
26 Centers;

1 (xvi) locations licensed under the Alternative
2 Health Care Delivery Act;

3 (2) a day training program certified by the Department
4 of Human Services;

5 (3) a community integrated living arrangement operated
6 by a community mental health and developmental service
7 agency, as defined in the Community-Integrated Living
8 Arrangements Licensing and Certification Act; ~~or~~

9 (4) the State Long Term Care Ombudsman Program,
10 including any regional long term care ombudsman programs
11 under Section 4.04 of the Illinois Act on the Aging, only
12 for the purpose of securing background checks; ~~or~~

13 (5) the Department of Corrections or a third-party
14 vendor employing certified nursing assistants working with
15 the Department of Corrections.

16 "Initiate" means obtaining from a student, applicant, or
17 employee his or her social security number, demographics, a
18 disclosure statement, and an authorization for the Department
19 of Public Health or its designee to request a fingerprint-based
20 criminal history records check; transmitting this information
21 electronically to the Department of Public Health; conducting
22 Internet searches on certain web sites, including without
23 limitation the Illinois Sex Offender Registry, the Department
24 of Corrections' Sex Offender Search Engine, the Department of
25 Corrections' Inmate Search Engine, the Department of
26 Corrections Wanted Fugitives Search Engine, the National Sex

1 Offender Public Registry, and the List of Excluded Individuals
2 and Entities database on the website of the Health and Human
3 Services Office of Inspector General to determine if the
4 applicant has been adjudicated a sex offender, has been a
5 prison inmate, or has committed Medicare or Medicaid fraud, or
6 conducting similar searches as defined by rule; and having the
7 student, applicant, or employee's fingerprints collected and
8 transmitted electronically to the Department of State Police.

9 "Livescan vendor" means an entity whose equipment has been
10 certified by the Department of State Police to collect an
11 individual's demographics and inkless fingerprints and, in a
12 manner prescribed by the Department of State Police and the
13 Department of Public Health, electronically transmit the
14 fingerprints and required data to the Department of State
15 Police and a daily file of required data to the Department of
16 Public Health. The Department of Public Health shall negotiate
17 a contract with one or more vendors that effectively
18 demonstrate that the vendor has 2 or more years of experience
19 transmitting fingerprints electronically to the Department of
20 State Police and that the vendor can successfully transmit the
21 required data in a manner prescribed by the Department of
22 Public Health. Vendor authorization may be further defined by
23 administrative rule.

24 "Long-term care facility" means a facility licensed by the
25 State or certified under federal law as a long-term care
26 facility, including without limitation facilities licensed

1 under the Nursing Home Care Act, the Specialized Mental Health
2 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
3 the MC/DD Act, a supportive living facility, an assisted living
4 establishment, or a shared housing establishment or registered
5 as a board and care home.

6 "Resident" means a person, individual, or patient under the
7 direct care of a health care employer or who has been provided
8 goods or services by a health care employer.

9 (Source: P.A. 100-432, eff. 8-25-17; 101-176, eff. 7-31-19.)

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