

# HB3798



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB3798**

Introduced 2/22/2021, by Rep. Jaime M. Andrade, Jr.

### 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.

LRB102 14682 SPS 20035 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  
17 enumerated 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

1 and licensing, certifying, or registering the health care  
2 employer 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,  
25 or home nursing agency as defined in the Home Health,  
26 Home 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  
20 fingerprint-based criminal history records check; transmitting  
21 this information electronically to the Department of Public  
22 Health; conducting Internet searches on certain web sites,  
23 including without limitation the Illinois Sex Offender  
24 Registry, the Department of Corrections' Sex Offender Search  
25 Engine, the Department of Corrections' Inmate Search Engine,  
26 the Department of Corrections Wanted Fugitives Search Engine,

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

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

25 "Long-term care facility" means a facility licensed by the  
26 State or certified under federal law as a long-term care

1 facility, including without limitation facilities licensed  
2 under the Nursing Home Care Act, the Specialized Mental Health  
3 Rehabilitation Act of 2013, the ID/DD Community Care Act, or  
4 the MC/DD Act, a supportive living facility, an assisted  
5 living establishment, or a shared housing establishment or  
6 registered as a board and care home.

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

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

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