



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2137

Introduced 2/26/2021, by Sen. Jacqueline Y. Collins

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-102.3 new  
5 ILCS 100/5-45.8 new

Amends the Nursing Home Care Act. Provides that the Department of Public Health shall require each long-term care facility in the State, as a condition of facility licensure, to adopt and implement written policies, provide for the availability of technology to facility residents, and ensure that appropriate staff and other capabilities are in place to prevent the social isolation of facility residents. Contains specified requirements for the social isolation prevention policies. Provides that the Department shall distribute civil monetary penalty funds, as approved by the federal Centers for Medicare and Medicaid Services, and any other available federal and State funds, upon request, to facilities for communicative technologies and accessories needed for the purposes of the provisions. Provides that whenever the Department conducts an inspection of a long-term care facility, the Department's inspector shall determine whether the long-term facility is in compliance with the provisions and the policies, protocols, and procedures adopted pursuant to the provisions. Requires the Department to adopt rules necessary to implement the provisions within 60 days after the amendatory Act's effective date (and makes conforming changes in the Illinois Administrative Procedure Act). Contains other provisions. Effective immediately.

LRB102 16414 CPF 21804 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 Nursing Home Care Act is amended by adding  
5 Section 3-102.3 as follows:

6 (210 ILCS 45/3-102.3 new)

7 Sec. 3-102.3. Religious and recreational activities;  
8 social isolation.

9 (a) In this Section:

10 "Religious and recreational activities" includes any  
11 religious, social, or recreational activity that is consistent  
12 with a resident's preferences and choosing, regardless of  
13 whether the activity is coordinated, offered, provided, or  
14 sponsored by facility staff or by an outside activities  
15 provider.

16 "Social isolation" means a state of isolation wherein a  
17 resident of a long-term care facility is unable to engage in  
18 social interactions and religious and recreational activities  
19 with other facility residents or with family members, friends,  
20 loved ones, caregivers and external support systems.

21 (b) The Department shall require each long-term care  
22 facility in the State, as a condition of facility licensure,  
23 to adopt and implement written policies, provide for the

1 availability of technology to facility residents, and ensure  
2 that appropriate staff and other capabilities are in place to  
3 prevent the social isolation of facility residents.

4 (c) The social isolation prevention policies adopted by  
5 each long-term care facility pursuant to subsection (b) shall:

6 (1) authorize, and include specific protocols and  
7 procedures to encourage and enable, residents of the  
8 facility to engage in in-person contact, communication,  
9 religious activity, and recreational activity with other  
10 facility residents and with family members, friends, loved  
11 ones, caregivers, and other external support systems,  
12 except when the in-person contact, communication,  
13 religious activity, or recreational activity is  
14 prohibited, restricted, or limited by federal or State  
15 statute, rule, or regulation;

16 (2) authorize, and include specific protocols and  
17 procedures to encourage and enable, residents to engage in  
18 face-to-face, verbal-based, or auditory-based contact,  
19 communication, religious activity, and recreational  
20 activity with other facility residents and with family  
21 members, friends, loved ones, caregivers, and other  
22 external support systems, through the use of electronic or  
23 virtual means and methods, including, but not limited to,  
24 computer technology, the Internet, social media,  
25 videoconferencing, and other innovative technological  
26 means or methods, whenever the resident is subject to

1 restrictions that limit his or her ability to engage in  
2 in-person contact, communication, religious activity, or  
3 recreational activity as authorized by paragraph (1);

4 (3) provide for residents of the facility to be given  
5 access to assistive and supportive technology as may be  
6 necessary to facilitate the residents' engagement in  
7 face-to-face, verbal-based, or auditory-based contact,  
8 communication, religious activity, and recreational  
9 activity with other residents, family members, friends,  
10 and other external support systems, through electronic  
11 means, as provided by paragraph (2);

12 (4) include specific administrative policies,  
13 procedures, and protocols governing:

14 (A) the acquisition, maintenance, and replacement  
15 of computers, videoconferencing equipment,  
16 distance-based communications technology, assistive  
17 and supportive technology and devices, and other  
18 technological equipment, accessories, and electronic  
19 licenses as may be necessary to ensure that residents  
20 are able to engage in face-to-face, verbal-based, or  
21 auditory-based contact, communication, religious  
22 activity, and recreational activity with other  
23 facility residents and with family members, friends,  
24 loved ones, caregivers, and other external support  
25 systems, through electronic means, in accordance with  
26 the provisions of paragraphs (2) and (3) of this

1           subsection;

2           (B) the use of environmental barriers and other  
3           controls when the equipment and devices acquired  
4           pursuant to subparagraph (A) are in use, especially in  
5           cases where the equipment or devices are likely to  
6           become contaminated with bodily substances, are  
7           touched frequently with gloved or ungloved hands, or  
8           are difficult to clean; and

9           (C) the regular cleaning of the equipment and  
10          devices acquired pursuant to subparagraph (A) and any  
11          environmental barriers or other physical controls used  
12          in association therewith;

13          (5) require appropriate staff to assess and regularly  
14          reassess the individual needs and preferences of facility  
15          residents with respect to the residents' participation in  
16          social interactions and religious and recreational  
17          activities, including specific protocols and procedures to  
18          ensure that the quantity of devices and equipment  
19          maintained on-site at the facility remains sufficient, at  
20          all times, to meet the assessed social and activity needs  
21          and preferences of each facility resident; family members  
22          or caregivers should be considered, as appropriate, in the  
23          assessment and reassessment;

24          (6) require appropriate staff, upon the request of a  
25          resident or the resident's family members, guardian, or  
26          representative to develop an individualized visitation

1 plan for the resident, which shall:

2 (A) identify the assessed needs and preferences of  
3 the resident and any preferences specified by the  
4 resident's family members;

5 (B) address the need for a visitation schedule and  
6 establish a visitation schedule if deemed to be  
7 appropriate;

8 (C) describe the location and modalities to be  
9 used in visitation; and

10 (D) describe the respective responsibilities of  
11 staff, visitors, and the resident when engaging in  
12 visitation pursuant to the individualized visitation  
13 plan;

14 (7) notify the resident and the resident's  
15 representative that they have the right to request of  
16 facility staff the creation and review of a resident's  
17 individualized visitation plan;

18 (8) include specific policies, protocols, and  
19 procedures governing a resident's requisition, use, and  
20 return of devices and equipment maintained pursuant to  
21 subparagraph (A) of paragraph (4), and require appropriate  
22 staff to communicate those policies, protocols, and  
23 procedures to residents; and

24 (9) designate at least one member of the therapeutic  
25 recreation or activities department, or, if the facility  
26 does not have such a department, designate at least one

1 senior staff member, as determined by facility management,  
2 to train other appropriate facility employees, including,  
3 but not limited to, activities professionals and  
4 volunteers, social workers, occupational therapists, and  
5 therapy assistants, to provide direct assistance to  
6 residents upon request and on an as-needed basis, as  
7 necessary to ensure that each resident is able to  
8 successfully access and use, for the purposes specified in  
9 paragraphs (2) and (3) of this subsection, the technology,  
10 devices, and equipment acquired pursuant to subparagraph  
11 (A) of paragraph (4).

12 (d) The Department shall distribute civil monetary penalty  
13 funds, as approved by the federal Centers for Medicare and  
14 Medicaid Services, and any other available federal and State  
15 funds, upon request, to facilities for communicative  
16 technologies and accessories needed for the purposes of this  
17 Section.

18 (e) Whenever the Department conducts an inspection of a  
19 long-term care facility, the Department's inspector shall  
20 determine whether the long-term facility is in compliance with  
21 the provisions of this Section and the policies, protocols,  
22 and procedures adopted pursuant to this Section.

23 In addition to any other applicable penalties provided by  
24 law, a long-term care facility that fails to comply with the  
25 provisions of this Section or properly implement the policies,  
26 protocols, and procedures adopted pursuant to subsection (b)

1 shall be liable to pay an administrative penalty, the amount  
2 of which shall be determined in accordance with a schedule  
3 established by the Department by rule. The schedule shall  
4 provide for an enhanced administrative penalty in the case of  
5 a repeat or ongoing violation.

6 (f) Whenever a complaint received by the Office of State  
7 Long Term Care Ombudsman discloses evidence that a long-term  
8 care facility has failed to comply with the provisions of this  
9 Section or to properly implement the policies, protocols, and  
10 procedures adopted pursuant to subsection (b), the Office of  
11 State Long Term Care Ombudsman shall refer the matter to the  
12 Department.

13 (g) This Section does not impact, limit, or constrict a  
14 resident's right to or usage of his or her personal property or  
15 electronic monitoring under Section 2-115.

16 (h) Within 60 days after the effective date of this  
17 amendatory Act of the 102nd General Assembly, the Department  
18 shall adopt any rules necessary to implement the provisions of  
19 this Section. The rules shall include, but need not be limited  
20 to, minimum standards for the social isolation prevention  
21 policies to be adopted pursuant to subsection (b) and a  
22 penalty schedule to be used pursuant to subsection (e).

23 Section 10. The Illinois Administrative Procedure Act is  
24 amended by adding Section 5-45.8 as follows:



1 (5 ILCS 100/5-45.8 new)

2 Sec. 5-45.8. Emergency rulemaking; Nursing Home Care Act.

3 To provide for the expeditious and timely implementation of

4 this amendatory Act of the 102nd General Assembly, emergency

5 rules implementing Section 3-102.3 of the Nursing Home Care

6 Act may be adopted in accordance with Section 5-45 by the

7 Department of Public Health. The adoption of emergency rules

8 authorized by Section 5-45 and this Section is deemed to be

9 necessary for the public interest, safety, and welfare.

10 This Section is repealed on January 1, 2027.

11 Section 99. Effective date. This Act takes effect upon

12 becoming law.