



Rep. Terra Costa Howard

**Filed: 3/21/2023**

10300HB2102ham001

LRB103 25089 SPS 59085 a

1 AMENDMENT TO HOUSE BILL 2102

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2102 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Health Care Worker Background Check Act is  
5 amended by changing Sections 25 and 33 as follows:

6 (225 ILCS 46/25)

7 Sec. 25. Hiring of people with criminal records by health  
8 care employers and long-term care facilities.

9 (a) A health care employer or long-term care facility may  
10 hire, employ, or retain any individual in a position involving  
11 direct care for clients, patients, or residents, or access to  
12 the living quarters or the financial, medical, or personal  
13 records of clients, patients, or residents who has been  
14 convicted of committing or attempting to commit one or more of  
15 the following offenses under the laws of this State, or of an  
16 offense that is substantially equivalent to the following

1 offenses under the laws of any other state or of the laws of  
2 the United States, as verified by court records, records from  
3 a state agency, or a Federal Bureau of Investigation criminal  
4 history records check, only with a waiver described in Section  
5 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,  
6 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,  
7 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,  
8 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,  
9 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,  
10 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,  
11 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,  
12 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,  
13 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,  
14 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,  
15 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,  
16 24-3.8, or 33A-2, or subdivision (a) (4) of Section 11-14.4, or  
17 in subsection (a) of Section 12-3 or subsection (a) or (b) of  
18 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal  
19 Code of 2012; those provided in Section 4 of the Wrongs to  
20 Children Act; those provided in Section 53 of the Criminal  
21 Jurisprudence Act; those defined in subsection (c), (d), (e),  
22 (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the  
23 Cannabis Control Act; those defined in the Methamphetamine  
24 Control and Community Protection Act; those defined in  
25 Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the  
26 Illinois Controlled Substances Act; or subsection (a) of

1 Section 3.01, Section 3.02, or Section 3.03 of the Humane Care  
2 for Animals Act.

3 (a-1) A health care employer or long-term care facility  
4 may hire, employ, or retain any individual in a position  
5 involving direct care for clients, patients, or residents, or  
6 access to the living quarters or the financial, medical, or  
7 personal records of clients, patients, or residents who has  
8 been convicted of committing or attempting to commit one or  
9 more of the following offenses under the laws of this State, or  
10 of an offense that is substantially equivalent to the  
11 following offenses under the laws of any other state or of the  
12 laws of the United States, as verified by court records,  
13 records from a state agency, or a Federal Bureau of  
14 Investigation criminal history records check, only with a  
15 waiver described in Section 40: those offenses defined in  
16 Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,  
17 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,  
18 24-3.2, or 24-3.3, or subsection (b) of Section 17-32,  
19 subsection (b) of Section 18-1, or subsection (b) of Section  
20 20-1, of the Criminal Code of 1961 or the Criminal Code of  
21 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card  
22 and Debit Card Act; or Section 11-9.1A of the Criminal Code of  
23 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs  
24 to Children Act; or (ii) violated Section 50-50 of the Nurse  
25 Practice Act.

26 A health care employer is not required to retain an

1 individual in a position with duties involving direct care for  
2 clients, patients, or residents, and no long-term care  
3 facility is required to retain an individual in a position  
4 with duties that involve or may involve contact with residents  
5 or access to the living quarters or the financial, medical, or  
6 personal records of residents, who has been convicted of  
7 committing or attempting to commit one or more of the offenses  
8 enumerated in this subsection.

9 (b) A health care employer shall not hire, employ, or  
10 retain, whether paid or on a volunteer basis, any individual  
11 in a position with duties involving direct care of clients,  
12 patients, or residents, and no long-term care facility shall  
13 knowingly hire, employ, or retain, whether paid or on a  
14 volunteer basis, any individual in a position with duties that  
15 involve or may involve contact with residents or access to the  
16 living quarters or the financial, medical, or personal records  
17 of residents, if the health care employer becomes aware that  
18 the individual has been convicted in another state of  
19 committing or attempting to commit an offense that has the  
20 same or similar elements as an offense listed in subsection  
21 (a) or (a-1), as verified by court records, records from a  
22 state agency, or an FBI criminal history record check, unless  
23 the applicant or employee obtains a waiver pursuant to Section  
24 40 of this Act. This shall not be construed to mean that a  
25 health care employer has an obligation to conduct a criminal  
26 history records check in other states in which an employee has

1       resided.

2           (c) A health care employer shall not hire, employ, or  
3       retain, whether paid or on a volunteer basis, any individual  
4       in a position with duties involving direct care of clients,  
5       patients, or residents, who has a finding by the Department of  
6       abuse, neglect, misappropriation of property, or theft denoted  
7       on the Health Care Worker Registry.

8           (d) A health care employer shall not hire, employ, or  
9       retain, whether paid or on a volunteer basis, any individual  
10      in a position with duties involving direct care of clients,  
11      patients, or residents if the individual has a verified and  
12      substantiated finding of abuse, neglect, or financial  
13      exploitation, as identified within the Adult Protective  
14      Service Registry established under Section 7.5 of the Adult  
15      Protective Services Act.

16          (e) A health care employer shall not hire, employ, or  
17      retain, whether paid or on a volunteer basis, any individual  
18      in a position with duties involving direct care of clients,  
19      patients, or residents who has a finding by the Department of  
20      Human Services of physical or sexual abuse, financial  
21      exploitation, or egregious neglect of an individual denoted on  
22      the Health Care Worker Registry.

23      (Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

24           (225 ILCS 46/33)

25           Sec. 33. Fingerprint-based criminal history records check.

1 (a) A fingerprint-based criminal history records check is  
2 not required for health care employees who have been  
3 continuously employed by a health care employer since October  
4 1, 2007, have met the requirements for criminal history  
5 background checks prior to October 1, 2007, and have no  
6 disqualifying convictions or requested and received a waiver  
7 of those disqualifying convictions. These employees shall be  
8 retained on the Health Care Worker Registry as long as they  
9 remain active. Nothing in this subsection (a) shall be  
10 construed to prohibit a health care employer from initiating a  
11 criminal history records check for these employees. Should  
12 these employees seek a new position with a different health  
13 care employer, then a fingerprint-based criminal history  
14 records check shall be required.

15 (b) On October 1, 2007 or as soon thereafter as is  
16 reasonably practical, in the discretion of the Director of  
17 Public Health, and thereafter, any student, applicant, or  
18 employee who desires to be included on the Department of  
19 Public Health's Health Care Worker Registry shall authorize  
20 the Department of Public Health or its designee to request a  
21 fingerprint-based criminal history records check to determine  
22 if the individual has a conviction for a disqualifying  
23 offense. This authorization shall allow the Department of  
24 Public Health to request and receive information and  
25 assistance from any State or governmental agency. Each  
26 individual shall submit his or her fingerprints to the

1 Illinois State Police in an electronic format that complies  
2 with the form and manner for requesting and furnishing  
3 criminal history record information prescribed by the Illinois  
4 State Police. Such fingerprints shall be transmitted through a  
5 livescan fingerprint vendor licensed by the Department of  
6 Financial and Professional Regulation. The fingerprints  
7 submitted under this Section shall be checked against the  
8 Illinois State Police and Federal Bureau of Investigation  
9 criminal history record databases, now and hereafter filed,  
10 including, but not limited to, civil, criminal, and latent  
11 fingerprint databases. ~~the fingerprint records now and~~  
12 ~~hereafter filed in the Illinois State Police criminal history~~  
13 ~~record databases.~~ The Illinois State Police shall charge a fee  
14 for conducting the criminal history records check, which shall  
15 be deposited into the State Police Services Fund and shall not  
16 exceed the actual cost of the records check. The Illinois  
17 State Police shall furnish, pursuant to positive  
18 identification, records of Illinois convictions and shall  
19 forward the national criminal history record information to  
20 the department or agency. The Illinois State Police shall  
21 forward the applicant's fingerprints to the Federal Bureau of  
22 Investigation. The Illinois State Police shall request that  
23 the Federal Bureau of Investigation conduct a national  
24 criminal history pertaining to the applicant ~~The livescan~~  
25 ~~vendor may act as the designee for individuals, educational~~  
26 ~~entities, or health care employers in the collection of~~

1 ~~Illinois State Police fees and deposit those fees into the~~  
2 ~~State Police Services Fund.~~ The Illinois State Police shall  
3 provide information concerning any criminal convictions, now  
4 or hereafter filed, against the individual.

5 (c) On October 1, 2007 or as soon thereafter as is  
6 reasonably practical, in the discretion of the Director of  
7 Public Health, and thereafter, an educational entity, other  
8 than a secondary school, conducting a nurse aide training  
9 program shall initiate a fingerprint-based criminal history  
10 records check required by this Act prior to entry of an  
11 individual into the training program.

12 (d) On October 1, 2007 or as soon thereafter as is  
13 reasonably practical, in the discretion of the Director of  
14 Public Health, and thereafter, a health care employer who  
15 makes a conditional offer of employment to an applicant for a  
16 position as an employee shall initiate a fingerprint-based  
17 criminal history record check, requested by the Department of  
18 Public Health, on the applicant, if such a background check  
19 has not been previously conducted. Workforce intermediaries  
20 and organizations providing pro bono legal services may  
21 initiate a fingerprint-based criminal history record check if  
22 a conditional offer of employment has not been made and a  
23 background check has not been previously conducted for an  
24 individual who has a disqualifying conviction and is receiving  
25 services from a workforce intermediary or an organization  
26 providing pro bono legal services.



1           (e) When initiating a background check requested by the  
2 Department of Public Health, an educational entity, health  
3 care employer, workforce intermediary, or organization that  
4 provides pro bono legal services shall electronically submit  
5 to the Department of Public Health the student's, applicant's,  
6 or employee's social security number, demographics,  
7 disclosure, and authorization information in a format  
8 prescribed by the Department of Public Health within 2 working  
9 days after the authorization is secured. The student,  
10 applicant, or employee shall have his or her fingerprints  
11 collected electronically and transmitted to the Illinois State  
12 Police within 10 working days. The educational entity, health  
13 care employer, workforce intermediary, or organization that  
14 provides pro bono legal services shall transmit all necessary  
15 information and fees to the livescan vendor and Illinois State  
16 Police within 10 working days after receipt of the  
17 authorization. This information and the results of the  
18 criminal history record checks shall be maintained by the  
19 Department of Public Health's Health Care Worker Registry.

20           (f) A direct care employer may initiate a  
21 fingerprint-based background check required by this Act for  
22 any of its employees, but may not use this process to initiate  
23 background checks for residents. The results of any  
24 fingerprint-based background check that is initiated with the  
25 Department as the requester shall be entered in the Health  
26 Care Worker Registry.

1           (g) As long as the employee or trainee has had a  
2 fingerprint-based criminal history record check required by  
3 this Act and stays active on the Health Care Worker Registry,  
4 no further criminal history record checks are required, as the  
5 Illinois State Police shall notify the Department of Public  
6 Health of any additional convictions associated with the  
7 fingerprints previously submitted. Health care employers shall  
8 check the Health Care Worker Registry before hiring an  
9 employee to determine that the individual has had a  
10 fingerprint-based record check required by this Act and has no  
11 disqualifying convictions or has been granted a waiver  
12 pursuant to Section 40 of this Act. If the individual has not  
13 had such a background check or is not active on the Health Care  
14 Worker Registry, then the health care employer shall initiate  
15 a fingerprint-based record check requested by the Department  
16 of Public Health. If an individual is inactive on the Health  
17 Care Worker Registry, that individual is prohibited from being  
18 hired to work as a certified nursing assistant if, since the  
19 individual's most recent completion of a competency test,  
20 there has been a period of 24 consecutive months during which  
21 the individual has not provided nursing or nursing-related  
22 services for pay. If the individual can provide proof of  
23 having retained his or her certification by not having a  
24 24-consecutive-month break in service for pay, he or she may  
25 be hired as a certified nursing assistant and that employment  
26 information shall be entered into the Health Care Worker

1 Registry.

2 (h) On October 1, 2007 or as soon thereafter as is  
3 reasonably practical, in the discretion of the Director of  
4 Public Health, and thereafter, if the Illinois State Police  
5 notifies the Department of Public Health that an employee has  
6 a new conviction of a disqualifying offense, based upon the  
7 fingerprints that were previously submitted, then (i) the  
8 Health Care Worker Registry shall notify the employee's last  
9 known employer of the offense, (ii) a record of the employee's  
10 disqualifying offense shall be entered on the Health Care  
11 Worker Registry, and (iii) the individual shall no longer be  
12 eligible to work as an employee unless he or she obtains a  
13 waiver pursuant to Section 40 of this Act.

14 (i) On October 1, 2007, or as soon thereafter, in the  
15 discretion of the Director of Public Health, as is reasonably  
16 practical, and thereafter, each direct care employer or its  
17 designee shall provide an employment verification for each  
18 employee no less than annually. The direct care employer or  
19 its designee shall log into the Health Care Worker Registry  
20 through a secure login. The health care employer or its  
21 designee shall indicate employment and termination dates  
22 within 30 days after hiring or terminating an employee, as  
23 well as the employment category and type. Failure to comply  
24 with this subsection (i) constitutes a licensing violation. A  
25 fine of up to \$500 may be imposed for failure to maintain these  
26 records. This information shall be used by the Department of

1 Public Health to notify the last known employer of any  
2 disqualifying offenses that are reported by the Illinois State  
3 Police.

4 (j) In the event that an applicant or employee has a waiver  
5 for one or more disqualifying offenses pursuant to Section 40  
6 of this Act and he or she is otherwise eligible to work, the  
7 Health Care Worker Registry shall indicate that the applicant  
8 or employee is eligible to work and that additional  
9 information is available on the Health Care Worker Registry.  
10 The Health Care Worker Registry may indicate that the  
11 applicant or employee has received a waiver.

12 (k) The student, applicant, or employee shall be notified  
13 of each of the following whenever a fingerprint-based criminal  
14 history records check is required:

15 (1) That the educational entity, health care employer,  
16 or long-term care facility shall initiate a  
17 fingerprint-based criminal history record check required  
18 by this Act of the student, applicant, or employee.

19 (2) That the student, applicant, or employee has a  
20 right to obtain a copy of the criminal records report that  
21 indicates a conviction for a disqualifying offense and  
22 challenge the accuracy and completeness of the report  
23 through an established Illinois State Police procedure of  
24 Access and Review.

25 (3) That the applicant, if hired conditionally, may be  
26 terminated if the criminal records report indicates that

1 the applicant has a record of a conviction of any of the  
2 criminal offenses enumerated in Section 25, unless the  
3 applicant obtains a waiver pursuant to Section 40 of this  
4 Act.

5 (4) That the applicant, if not hired conditionally,  
6 shall not be hired if the criminal records report  
7 indicates that the applicant has a record of a conviction  
8 of any of the criminal offenses enumerated in Section 25,  
9 unless the applicant obtains a waiver pursuant to Section  
10 40 of this Act.

11 (5) That the employee shall be terminated if the  
12 criminal records report indicates that the employee has a  
13 record of a conviction of any of the criminal offenses  
14 enumerated in Section 25.

15 (6) If, after the employee has originally been  
16 determined not to have disqualifying offenses, the  
17 employer is notified that the employee has a new  
18 conviction(s) of any of the criminal offenses enumerated  
19 in Section 25, then the employee shall be terminated.

20 (1) A health care employer or long-term care facility may  
21 conditionally employ an applicant for up to 3 months pending  
22 the results of a fingerprint-based criminal history record  
23 check requested by the Department of Public Health.

24 (m) The Department of Public Health or an entity  
25 responsible for inspecting, licensing, certifying, or  
26 registering the health care employer or long-term care

1 facility shall be immune from liability for notices given  
2 based on the results of a fingerprint-based criminal history  
3 record check.

4 (n) As used in this Section:

5 "Workforce intermediaries" means organizations that  
6 function to provide job training and employment services.  
7 Workforce intermediaries include institutions of higher  
8 education, faith-based and community organizations, and  
9 workforce investment boards.

10 "Organizations providing pro bono legal services" means  
11 legal services performed without compensation or at a  
12 significantly reduced cost to the recipient that provide  
13 services designed to help individuals overcome statutory  
14 barriers that would prevent them from entering positions in  
15 the healthcare industry.

16 (Source: P.A. 101-176, eff. 7-31-19; 102-538, eff. 8-20-21.)".