



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5656

Introduced 2/9/2024, by Rep. Debbie Meyers-Martin

SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-201.5

210 ILCS 45/2-201.6

Amends the Nursing Home Care Act. In provisions concerning screening prior to admission, provides that if the results of the background check are inconclusive, the facility shall initiate a fingerprint-based check, unless the fingerprint check is waived by the Director of Public Health or the Director's designee (rather than only by the Director) based on verification provided by the facility that the resident has decreased mobility (rather than is completely immobile) or that the resident meets other criteria related to the resident's health (rather than the resident meets other criteria related to the resident's health or lack of potential risk which may be established by Departmental rule). Provides that a waiver shall be valid only while the criteria supporting the waiver exist (rather than a waiver shall be valid only while the resident is immobile or while the criteria supporting the waiver exist). In provisions concerning a criminal history report, provides that the Illinois State Police shall provide the criminal history report to a licensed forensic psychologist, a licensed clinical social worker, or a licensed clinical professional counselor (rather than only to a licensed forensic psychologist). Provides that after consideration of the criminal history report, consultation with the facility administrator or the facility medical director, or the administrator's or medical director's designee (rather than or both the administrator and director), and review of certain information, the licensed forensic psychologist, licensed clinical social worker, or licensed clinical professional counselor (rather than only a licensed forensic psychologist) shall prepare an identified offender report and recommendation. Makes other changes.

LRB103 31173 BMS 57986 b

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
5 changing Sections 2-201.5 and 2-201.6 as follows:

6 (210 ILCS 45/2-201.5)

7 Sec. 2-201.5. Screening prior to admission.

8 (a) All persons age 18 or older seeking admission to a
9 nursing facility must be screened to determine the need for
10 nursing facility services prior to being admitted, regardless
11 of income, assets, or funding source. Screening for nursing
12 facility services shall be administered through procedures
13 established by administrative rule. Screening may be done by
14 agencies other than the Department as established by
15 administrative rule. This Section applies on and after July 1,
16 1996. No later than October 1, 2010, the Department of
17 Healthcare and Family Services, in collaboration with the
18 Department on Aging, the Department of Human Services, and the
19 Department of Public Health, shall file administrative rules
20 providing for the gathering, during the screening process, of
21 information relevant to determining each person's potential
22 for placing other residents, employees, and visitors at risk
23 of harm.

1 (a-1) Any screening performed pursuant to subsection (a)
2 of this Section shall include a determination of whether any
3 person is being considered for admission to a nursing facility
4 due to a need for mental health services. For a person who
5 needs mental health services, the screening shall also include
6 an evaluation of whether there is permanent supportive
7 housing, or an array of community mental health services,
8 including but not limited to supported housing, assertive
9 community treatment, and peer support services, that would
10 enable the person to live in the community. The person shall be
11 told about the existence of any such services that would
12 enable the person to live safely and humanely and about
13 available appropriate nursing home services that would enable
14 the person to live safely and humanely, and the person shall be
15 given the assistance necessary to avail himself or herself of
16 any available services.

17 (a-2) Pre-screening for persons with a serious mental
18 illness shall be performed by a psychiatrist, a psychologist,
19 a registered nurse certified in psychiatric nursing, a
20 licensed clinical professional counselor, or a licensed
21 clinical social worker, who is competent to (i) perform a
22 clinical assessment of the individual, (ii) certify a
23 diagnosis, (iii) make a determination about the individual's
24 current need for treatment, including substance abuse
25 treatment, and recommend specific treatment, and (iv)
26 determine whether a facility or a community-based program is

1 able to meet the needs of the individual.

2 For any person entering a nursing facility, the
3 pre-screening agent shall make specific recommendations about
4 what care and services the individual needs to receive,
5 beginning at admission, to attain or maintain the individual's
6 highest level of independent functioning and to live in the
7 most integrated setting appropriate for his or her physical
8 and personal care and developmental and mental health needs.
9 These recommendations shall be revised as appropriate by the
10 pre-screening or re-screening agent based on the results of
11 resident review and in response to changes in the resident's
12 wishes, needs, and interest in transition.

13 Upon the person entering the nursing facility, the
14 Department of Human Services or its designee shall assist the
15 person in establishing a relationship with a community mental
16 health agency or other appropriate agencies in order to (i)
17 promote the person's transition to independent living and (ii)
18 support the person's progress in meeting individual goals.

19 (a-3) The Department of Human Services, by rule, shall
20 provide for a prohibition on conflicts of interest for
21 pre-admission screeners. The rule shall provide for waiver of
22 those conflicts by the Department of Human Services if the
23 Department of Human Services determines that a scarcity of
24 qualified pre-admission screeners exists in a given community
25 and that, absent a waiver of conflicts, an insufficient number
26 of pre-admission screeners would be available. If a conflict

1 is waived, the pre-admission screener shall disclose the
2 conflict of interest to the screened individual in the manner
3 provided for by rule of the Department of Human Services. For
4 the purposes of this subsection, a "conflict of interest"
5 includes, but is not limited to, the existence of a
6 professional or financial relationship between (i) a PAS-MH
7 corporate or a PAS-MH agent and (ii) a community provider or
8 long-term care facility.

9 (b) In addition to the screening required by subsection
10 (a), a facility, except for those licensed under the MC/DD
11 Act, shall, within 24 hours after admission, request a
12 criminal history background check pursuant to the Illinois
13 Uniform Conviction Information Act for all persons age 18 or
14 older seeking admission to the facility, unless (i) a
15 background check was initiated by a hospital pursuant to
16 subsection (d) of Section 6.09 of the Hospital Licensing Act
17 or a pre-admission background check was conducted by the
18 Department of Veterans' Affairs 30 days prior to admittance
19 into an Illinois Veterans Home; (ii) the transferring resident
20 is immobile; or (iii) the transferring resident is moving into
21 hospice. The exemption provided in item (ii) or (iii) of this
22 subsection (b) shall apply only if a background check was
23 completed by the facility the resident resided at prior to
24 seeking admission to the facility and the resident was
25 transferred to the facility with no time passing during which
26 the resident was not institutionalized. If item (ii) or (iii)

1 of this subsection (b) applies, the prior facility shall
2 provide a copy of its background check of the resident and all
3 supporting documentation, including, when applicable, the
4 criminal history report and the security assessment, to the
5 facility to which the resident is being transferred.
6 Background checks conducted pursuant to this Section shall be
7 based on the resident's name, date of birth, and other
8 identifiers as required by the Illinois State Police. If the
9 results of the background check are inconclusive, the facility
10 shall initiate a fingerprint-based check, unless the
11 fingerprint check is waived by the Director of Public Health
12 or the Director's designee based on verification provided by
13 the facility that the resident has decreased mobility ~~is~~
14 ~~completely immobile~~ or that the resident meets other criteria
15 related to the resident's health, including that the resident
16 lacks the mental capacity to consent to fingerprinting, has
17 missing finger digits, lacks fingerprints, or exhibits minimal
18 risk ~~or lack of potential risk which may be established by~~
19 Departmental rule. A waiver issued pursuant to this Section
20 shall be valid only ~~while the resident is immobile or~~ while the
21 criteria supporting the waiver exist. The facility shall
22 provide for or arrange for any required fingerprint-based
23 checks to be taken on the premises of the facility. If a
24 fingerprint-based check is required, the facility shall
25 arrange for it to be conducted in a manner that is respectful
26 of the resident's dignity and that minimizes any emotional or

1 physical hardship to the resident.

2 (c) If the results of a resident's criminal history
3 background check reveal that the resident is an identified
4 offender as defined in Section 1-114.01, the facility shall do
5 the following:

6 (1) Immediately notify the Illinois State Police, in
7 the form and manner required by the Illinois State Police,
8 in collaboration with the Department of Public Health,
9 that the resident is an identified offender.

10 (2) Within 72 hours, arrange for a fingerprint-based
11 criminal history record inquiry to be requested on the
12 identified offender resident. The inquiry shall be based
13 on the subject's name, sex, race, date of birth,
14 fingerprint images, and other identifiers required by the
15 Illinois State Police. The inquiry shall be processed
16 through the files of the Illinois State Police and the
17 Federal Bureau of Investigation to locate any criminal
18 history record information that may exist regarding the
19 subject. The Federal Bureau of Investigation shall furnish
20 to the Illinois State Police, pursuant to an inquiry under
21 this paragraph (2), any criminal history record
22 information contained in its files.

23 The facility shall comply with all applicable provisions
24 contained in the Illinois Uniform Conviction Information Act.

25 All name-based and fingerprint-based criminal history
26 record inquiries shall be submitted to the Illinois State

1 Police electronically in the form and manner prescribed by the
2 Illinois State Police. The Illinois State Police may charge
3 the facility a fee for processing name-based and
4 fingerprint-based criminal history record inquiries. The fee
5 shall be deposited into the State Police Services Fund. The
6 fee shall not exceed the actual cost of processing the
7 inquiry.

8 (d) (Blank).

9 (e) The Department shall develop and maintain a
10 de-identified database of residents who have injured facility
11 staff, facility visitors, or other residents, and the
12 attendant circumstances, solely for the purposes of evaluating
13 and improving resident pre-screening and assessment procedures
14 (including the Criminal History Report prepared under Section
15 2-201.6) and the adequacy of Department requirements
16 concerning the provision of care and services to residents. A
17 resident shall not be listed in the database until a
18 Department survey confirms the accuracy of the listing. The
19 names of persons listed in the database and information that
20 would allow them to be individually identified shall not be
21 made public. Neither the Department nor any other agency of
22 State government may use information in the database to take
23 any action against any individual, licensee, or other entity,
24 unless the Department or agency receives the information
25 independent of this subsection (e). All information collected,
26 maintained, or developed under the authority of this

1 subsection (e) for the purposes of the database maintained
2 under this subsection (e) shall be treated in the same manner
3 as information that is subject to Part 21 of Article VIII of
4 the Code of Civil Procedure.

5 (Source: P.A. 102-538, eff. 8-20-21.)

6 (210 ILCS 45/2-201.6)

7 Sec. 2-201.6. Criminal History Report.

8 (a) The Illinois State Police shall prepare a Criminal
9 History Report when it receives information, through the
10 criminal history background check required pursuant to
11 subsection (d) of Section 6.09 of the Hospital Licensing Act
12 or subsection (c) of Section 2-201.5, or through any other
13 means, that a resident of a facility is an identified
14 offender.

15 (b) The Illinois State Police shall complete the Criminal
16 History Report within 10 business days after receiving
17 information under subsection (a) that a resident is an
18 identified offender.

19 (c) The Criminal History Report shall include, but not be
20 limited to, the following:

21 (1) (Blank).

22 (2) (Blank).

23 (3) (Blank).

24 (3.5) Copies of the identified offender's parole,
25 mandatory supervised release, or probation orders.

1 (4) An interview with the identified offender.

2 (5) (Blank).

3 (6) A detailed summary of the entire criminal history
4 of the offender, including arrests, convictions, and the
5 date of the identified offender's last conviction relative
6 to the date of admission to a long-term care facility.

7 (7) If the identified offender is a convicted or
8 registered sex offender, a review of any and all sex
9 offender evaluations conducted on that offender. If there
10 is no sex offender evaluation available, the Illinois
11 State Police shall arrange, through the Department of
12 Public Health, for a sex offender evaluation to be
13 conducted on the identified offender. If the convicted or
14 registered sex offender is under supervision by the
15 Illinois Department of Corrections or a county probation
16 department, the sex offender evaluation shall be arranged
17 by and at the expense of the supervising agency. All
18 evaluations conducted on convicted or registered sex
19 offenders under this Act shall be conducted by sex
20 offender evaluators approved by the Sex Offender
21 Management Board.

22 (d) The Illinois State Police shall provide the Criminal
23 History Report to a licensed forensic psychologist, a licensed
24 clinical social worker, or a licensed clinical professional
25 counselor. After (i) consideration of the Criminal History
26 Report, (ii) consultation with the facility administrator or

1 the facility medical director, or the administrator's or
2 medical director's designee ~~both~~, regarding the mental and
3 physical condition of the identified offender, and (iii)
4 reviewing the facility's file on the identified offender,
5 including all incident reports, all information regarding
6 medication and medication compliance, and all information
7 regarding previous discharges or transfers from other
8 facilities, the licensed forensic psychologist, licensed
9 clinical social worker, or licensed clinical professional
10 counselor shall prepare an Identified Offender Report and
11 Recommendation. The Identified Offender Report and
12 Recommendation shall detail whether and to what extent the
13 identified offender's criminal history necessitates the
14 implementation of security measures within the long-term care
15 facility. If the identified offender is a convicted or
16 registered sex offender or if the Identified Offender Report
17 and Recommendation reveals that the identified offender poses
18 a significant risk of harm to others within the facility, the
19 offender shall be required to have his or her own room and a
20 public bath within the facility.

21 (e) The licensed forensic psychologist, licensed clinical
22 social worker, or licensed clinical professional counselor
23 shall complete the Identified Offender Report and
24 Recommendation within 14 business days after receiving the
25 Criminal History Report and shall promptly provide the
26 Identified Offender Report and Recommendation to the Illinois

1 State Police, which shall provide the Identified Offender
2 Report and Recommendation to the following:

3 (1) The long-term care facility within which the
4 identified offender resides.

5 (2) The Chief of Police of the municipality in which
6 the facility is located.

7 (3) The State of Illinois Long Term Care Ombudsman.

8 (4) The Department of Public Health.

9 (e-5) The Department of Public Health shall keep a
10 continuing record of all residents determined to be identified
11 offenders as defined in Section 1-114.01 and shall report the
12 number of identified offender residents annually to the
13 General Assembly.

14 (f) The facility shall incorporate the Identified Offender
15 Report and Recommendation into the identified offender's care
16 plan created pursuant to 42 CFR 483.20.

17 (g) If, based on the Identified Offender Report and
18 Recommendation, a facility determines that it cannot manage
19 the identified offender resident safely within the facility,
20 it shall commence involuntary transfer or discharge
21 proceedings pursuant to Section 3-402.

22 (h) Except for willful and wanton misconduct, any person
23 authorized to participate in the development of a Criminal
24 History Report or Identified Offender Report and
25 Recommendation is immune from criminal or civil liability for
26 any acts or omissions as the result of his or her good faith

- 1 effort to comply with this Section.
- 2 (Source: P.A. 102-538, eff. 8-20-21.)