



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0399

Introduced 1/25/2005, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 5/3-2

from Ch. 15, par. 303-2

Creates the Health Care Setting Violence Prevention Act. Requires health care settings, including hospitals, mental health evaluation and treatment facilities, community mental health programs, home health agencies, and hospice programs, by July 1, 2006, to adopt and implement a plan to reasonably prevent and protect employees from violence at the setting. Requires a health care setting to file copies of its plan, and copies of changes to the plan, with the Department of Labor and the Department of Human Services. Requires a review of the plan at least once every 3 years. Requires health care settings to provide violence prevention training to employees by July 1, 2007. Requires health care settings to keep records of violent acts against an employee, a patient, or a visitor and to forward copies of such records to the Department of Labor and the Department of Human Services. Provides for enforcement of the Act by the Department of Labor, and authorizes the Director of Labor to issue an order for correction to a health care setting fixing a time for abatement of a violation. Amends the Illinois State Auditing Act. Requires that the Auditor General's audits of certain mental health and developmental disabilities facilities under the jurisdiction of the Department of Human Services include their records concerning reports of suspected abuse of facility staff by facility residents or patients. Effective immediately.

LRB094 05629 DRJ 36444 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Health
5 Care Setting Violence Prevention Act.

6 Section 5. Findings. The General Assembly finds as follows:

7 (1) Violence is an escalating problem in many health
8 care settings in this State and across the nation.

9 (2) The actual incidence of workplace violence in
10 health care settings, in particular, is likely to be
11 greater than documented because of failure to report such
12 incidents or failure to maintain records of incidents that
13 are reported.

14 (3) Patients, visitors, and health care employees
15 should be assured a reasonably safe and secure environment
16 in health care settings.

17 (4) Many health care settings have undertaken efforts
18 to ensure that patients, visitors, and employees are safe
19 from violence, but additional personnel training and
20 appropriate safeguards may be needed to prevent workplace
21 violence and minimize the risk and dangers affecting people
22 in health care settings.

23 Section 10. Definitions. In this Act:

24 "Department" means the Department of Labor.

25 "Director" means the Director of Labor.

26 "Employee" means any individual who is employed on a
27 full-time, part-time, or contractual basis by a health care
28 setting.

29 "Evaluation and treatment facility" means any facility
30 that can provide directly, or by direct arrangement with other
31 public or private agencies, emergency evaluation and

1 treatment, outpatient care, and timely and appropriate
2 inpatient care to persons suffering from a mental disorder, and
3 that is recognized as such by the Department of Human Services.
4 The term may include a physically separate and separately
5 operated portion of a State mental health facility. The term
6 does not include a correctional institution or facility or
7 jail.

8 "Health care setting" means any of the following:

9 (1) A public or private hospital licensed under the
10 Hospital Licensing Act or a hospital organized under the
11 University of Illinois Hospital Act.

12 (2) A facility under the jurisdiction of the Department
13 of Human Services described in Section 4 of the Mental
14 Health and Developmental Disabilities Administrative Act.

15 (3) A public or private evaluation and treatment
16 facility.

17 (4) A community mental health facility established
18 under the Community Mental Health Act.

19 (5) A public or private home health agency licensed
20 under the Home Health Agency Licensing Act.

21 (6) A public or private hospice program licensed under
22 the Hospice Program Licensing Act.

23 "Violence" or "violent act" means any physical assault or
24 verbal threat of physical assault against an employee of a
25 health care setting.

26 Section 15. Workplace violence plan.

27 (a) By July 1, 2006, every health care setting must adopt
28 and implement a plan to reasonably prevent and protect
29 employees from violence at the setting. The plan must address
30 security considerations related to the following items, as
31 appropriate to the particular setting, based on the hazards
32 identified in the assessment required under subsection (b):

33 (1) The physical attributes of the health care setting.

34 (2) Staffing, including security staffing.

35 (3) Personnel policies.

1 (4) First aid and emergency procedures.

2 (5) The reporting of violent acts.

3 (6) Employee education and training.

4 (b) Before adopting the plan required under subsection (a),
5 a health care setting must conduct a security and safety
6 assessment to identify existing or potential hazards for
7 violence and determine the appropriate preventive action to be
8 taken. The assessment must include, but need not be limited to,
9 a measure of the frequency of, and an identification of the
10 causes for and consequences of, violent acts at the setting
11 during at least the preceding 5 years or for the years for
12 which records are available for assessments involving home
13 health agencies or hospice programs.

14 (c) In adopting the plan required by subsection (a), a
15 health care setting may consider any guidelines on violence in
16 the workplace or in health care settings issued by the
17 Department of Public Health, the Department of Human Services,
18 the Department of Labor, the federal Occupational Safety and
19 Health Administration, Medicare, and health care setting
20 accrediting organizations.

21 (d) Promptly after adopting a plan under subsection (a), a
22 health care setting must file copies of its plan with the
23 Department of Labor and with the Department of Human Services.

24 (e) A health care setting must review its plan at least
25 once every 3 years and must report each such review to the
26 Department of Labor and to the Department of Human Services,
27 together with any changes to the plan adopted by the health
28 care setting. If a health care setting does not adopt any
29 changes to its plan in response to such a review, it must
30 report that fact to each department. A health care setting must
31 promptly report to the Department of Labor and to the
32 Department of Human Services all changes to the health care
33 setting's plan, regardless of whether those changes were
34 adopted in response to a periodic review required under this
35 subsection.

1 Section 20. Violence prevention training. By July 1, 2007,
2 and on a regular basis thereafter, as set forth in the plan
3 adopted under Section 15, a health care setting must provide
4 violence prevention training to all its affected employees as
5 determined by the plan. Unless an affected employee is a
6 temporary employee, the training must occur (i) within 90 days
7 after the effective date of this Act, in the case of an
8 employee who is employed on that effective date, and (ii)
9 within 90 days after the employee's term of employment begins,
10 in the case of an employee who is hired after that effective
11 date. For temporary employees, training must take into account
12 unique circumstances. A health care setting also shall provide
13 periodic follow-up training for its employees as appropriate.
14 The training may vary by the plan and may include, but need not
15 be limited to, classes, videotapes, brochures, verbal
16 training, or other verbal or written training that is
17 determined to be appropriate under the plan. The training must
18 address the following topics, as appropriate to the particular
19 health care setting and to the duties and responsibilities of
20 the particular employee being trained, based on the hazards
21 identified in the assessment required under Section 15:

22 (1) General safety procedures.

23 (2) Personal safety procedures.

24 (3) The violence escalation cycle.

25 (4) Violence-predicting factors.

26 (5) Obtaining patient history from a patient with a
27 history of violent behavior.

28 (6) Verbal and physical techniques to de-escalate and
29 minimize violent behavior.

30 (7) Strategies to avoid physical harm.

31 (8) Restraining techniques.

32 (9) Appropriate use of medications as chemical
33 restraints.

34 (10) Documenting and reporting incidents of violence.

35 (11) The process whereby employees affected by a
36 violent act may debrief.

1 (12) Any resources available to employees for coping
2 with violence.

3 (13) The health care setting's workplace violence
4 prevention plan.

5 Section 25. Record of violent acts.

6 (a) Beginning no later than July 1, 2006, every health care
7 setting must keep a record of any violent act against an
8 employee, a patient, or a visitor occurring at the setting. At
9 a minimum, the record must include the following:

10 (1) The health care setting's name and address.

11 (2) The date, time, and specific location at the health
12 care setting where the violent act occurred.

13 (3) The name, job title, department or ward assignment,
14 and staff identification or social security number of the
15 victim, if the victim was an employee.

16 (4) A description of the person against whom the
17 violent act was committed as one of the following:

18 (A) A patient.

19 (B) A visitor.

20 (C) An employee.

21 (D) Other.

22 (5) A description of the person committing the violent
23 act as one of the following:

24 (A) A patient.

25 (B) A visitor.

26 (C) An employee.

27 (D) Other.

28 (6) A description of the type of violent act as one of
29 the following:

30 (A) A threat of assault with no physical contact.

31 (B) A physical assault with contact but no physical
32 injury.

33 (C) A physical assault with mild soreness, surface
34 abrasions, scratches, or small bruises.

35 (D) A physical assault with major soreness, cuts,

1 or large bruises.

2 (E) A physical assault with severe lacerations, a
3 bone fracture, or a head injury.

4 (F) A physical assault with loss of limb or death.

5 (7) An identification of any body part injured.

6 (8) A description of any weapon used.

7 (9) The number of employees in the vicinity of the
8 violent act when it occurred.

9 (10) A description of actions taken by employees and
10 the health care setting in response to the violent act.

11 (b) A health care setting must periodically forward copies
12 of each such record of a violent act to the Department of Labor
13 and to the Department of Human Services and other appropriate
14 State agencies, as determined by the Department of Labor in
15 rules.

16 (c) Each record must be kept for at least 5 years following
17 the violent act reported. During that time, the record must be
18 available for inspection by the Department upon request and
19 must be made available to the General Assembly upon request.

20 Section 30. Assistance in complying with Act. A health care
21 setting needing assistance in complying with this Act may
22 contact the federal Department of Labor or the Illinois
23 Department of Labor for assistance. The Illinois departments of
24 Labor, Human Services, and Public Health shall collaborate with
25 representatives of health care settings to develop technical
26 assistance and training seminars on developing and
27 implementing a workplace violence plan as required under
28 Section 15. Those departments shall coordinate their
29 assistance to health care settings.

30 Section 35. Noncompliance with Act; order for correction.

31 (a) A health care setting that violates this Act or the
32 rules implementing this Act is subject to an order for
33 correction as provided in this Section.

34 (b) Upon inspection or investigation, if the Director or

1 his or her authorized representative believes that a health
2 care setting has violated any requirement of this Act or the
3 rules implementing this Act, the Director, with reasonable
4 promptness, shall issue an order for correction to the health
5 care setting. The order for correction must be in writing and
6 must describe with particularity the nature of the violation,
7 including a reference to the provisions of this Act or rules of
8 the Department alleged to have been violated. In addition, the
9 order for correction must fix a reasonable time for the
10 abatement of the violation. The Director may prescribe
11 procedures for the issuance of a notice in lieu of an order for
12 correction with respect to de minimis violations that have no
13 direct or immediate relationship to safety or health.

14 (c) An order for correction, or a copy or copies of an
15 order for correction, issued under the authority of this
16 Section must be prominently posted on the health care setting's
17 premises or as otherwise prescribed in rules adopted by the
18 Director. The Director shall provide by rule for procedures to
19 be followed by an employee representative upon written
20 application to receive copies of orders for correction and
21 notices issued to any health care setting having employees who
22 are represented by that employee representative. The rule may
23 prescribe the form of such an application, the time for renewal
24 of applications, and the eligibility of the applicant to
25 receive copies of orders for correction and notices.

26 (d) An order for correction may not be issued under this
27 Section after the expiration of 6 months following a compliance
28 inspection, investigation, or survey revealing a violation of
29 this Act or the rules implementing this Act.

30 (e) An order for correction may not be issued under this
31 Section if unpreventable employee misconduct led to the
32 violation, but in that case the health care setting must show
33 the existence of all of the following:

34 (1) A thorough safety program, including work rules,
35 training, and equipment designed to prevent the violation.

36 (2) Adequate communication of these rules to

1 employees.

2 (3) Steps to discover and correct violations of its
3 safety rules.

4 (4) Effective enforcement of its safety program as
5 written in practice and not just in theory.

6 This subsection (e) does not eliminate or modify any other
7 defenses that may exist to an order for correction.

8 (f) It is the intent of the General Assembly that any
9 violence protection and prevention plan developed under this
10 Act be appropriate to the setting in which it is to be
11 implemented. To that end, the General Assembly recognizes that
12 not all professional health care is provided in a facility or
13 other formal setting, such as a hospital. Many services are
14 provided by home health agencies or hospice programs. The
15 General Assembly finds that it is inappropriate and impractical
16 for these agencies and programs to address workplace violence
17 in the same manner as other, facility-based, health care
18 settings. When enforcing this Act with respect to a home health
19 agency or hospice program, the Department shall allow the
20 agency or program sufficient flexibility in recognition of the
21 unique circumstances in which the agency or program delivers
22 services.

23 Section 40. Rules. The Department shall adopt rules to
24 implement this Act.

25 Section 90. The Illinois State Auditing Act is amended by
26 changing Section 3-2 as follows:

27 (30 ILCS 5/3-2) (from Ch. 15, par. 303-2)

28 Sec. 3-2. Mandatory and directed post audits. The Auditor
29 General shall conduct a financial audit, a compliance audit, or
30 other attestation engagement, as is appropriate to the agency's
31 operations under generally accepted government auditing
32 standards, of each State agency except the Auditor General or
33 his office at least once during every biennium, except as is

1 otherwise provided in regulations adopted under Section 3-8.
2 The general direction and supervision of the financial audit
3 program may be delegated only to an individual who is a
4 Certified Public Accountant and a payroll employee of the
5 Office of the Auditor General. In the conduct of financial
6 audits, compliance audits, and other attestation engagements,
7 the Auditor General may inquire into and report upon matters
8 properly within the scope of a performance audit, provided that
9 such inquiry shall be limited to matters arising during the
10 ordinary course of the financial audit.

11 In any year the Auditor General shall conduct any special
12 audits as may be necessary to form an opinion on the financial
13 statements of this State, as prepared by the Comptroller, and
14 to certify that this presentation is in accordance with
15 generally accepted accounting principles for government.

16 Simultaneously with the biennial compliance audit of the
17 Department of Human Services, the Auditor General shall conduct
18 a program audit of each facility under the jurisdiction of that
19 Department that is described in Section 4 of the Mental Health
20 and Developmental Disabilities Administrative Act. The program
21 audit shall include an examination of the records of each
22 facility concerning (i) reports of suspected abuse or neglect
23 of any patient or resident of the facility and (ii) reports of
24 suspected abuse of facility staff by patients or residents. The
25 Auditor General shall report the findings of the program audit
26 to the Governor and the General Assembly, including findings
27 concerning patterns or trends relating to (i) abuse or neglect
28 of facility patients and residents or (ii) abuse of facility
29 staff. However, for any year for which the Inspector General
30 submits a report to the Governor and General Assembly as
31 required under Section 6.7 of the Abused and Neglected Long
32 Term Care Facility Residents Reporting Act, the Auditor General
33 need not conduct the program audit otherwise required under
34 this paragraph.

35 The Auditor General shall conduct a performance audit of a
36 State agency when so directed by the Commission, or by either

1 house of the General Assembly, in a resolution identifying the
2 subject, parties and scope. Such a directing resolution may:

3 (a) require the Auditor General to examine and report
4 upon specific management efficiencies or cost
5 effectiveness proposals specified therein;

6 (b) in the case of a program audit, set forth specific
7 program objectives, responsibilities or duties or may
8 specify the program performance standards or program
9 evaluation standards to be the basis of the program audit;

10 (c) be directed at particular procedures or functions
11 established by statute, by administrative regulation or by
12 precedent; and

13 (d) require the Auditor General to examine and report
14 upon specific proposals relating to state programs
15 specified in the resolution.

16 The Commission may by resolution clarify, further direct,
17 or limit the scope of any audit directed by a resolution of the
18 House or Senate, provided that any such action by the
19 Commission must be consistent with the terms of the directing
20 resolution.

21 (Source: P.A. 93-630, eff. 12-23-03.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.