

1 AN ACT concerning regulation.

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

4 (210 ILCS 28/85 rep.)

5 Section 5. The Abuse Prevention Review Team Act is amended
6 by repealing Section 85.

7 Section 10. The Nursing Home Care Act is amended by
8 changing Sections 2-110, 2-201.5, and 2-216 and by adding
9 Section 2-201.6 as follows:

10 (210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

11 Sec. 2-110. (a) Any employee or agent of a public agency,
12 any representative of a community legal services program or any
13 other member of the general public shall be permitted access at
14 reasonable hours to any individual resident of any facility,
15 but only if there is neither a commercial purpose nor effect to
16 such access and if the purpose is to do any of the following:

17 (1) Visit, talk with and make personal, social and
18 legal services available to all residents;

19 (2) Inform residents of their rights and entitlements
20 and their corresponding obligations, under federal and
21 State laws, by means of educational materials and
22 discussions in groups and with individual residents;

23 (3) Assist residents in asserting their legal rights
24 regarding claims for public assistance, medical assistance
25 and social security benefits, as well as in all other
26 matters in which residents are aggrieved. Assistance may
27 include counseling and litigation; or

28 (4) Engage in other methods of asserting, advising and
29 representing residents so as to extend to them full
30 enjoyment of their rights.

31 (a-5) If a resident of a licensed facility is an identified

1 offender, any federal, State, or local law enforcement officer
2 or county probation officer shall be permitted reasonable
3 access to the individual resident to verify compliance with the
4 requirements of the Sex Offender Registration Act, to verify
5 compliance with the requirements of Public Act 94-163 and this
6 amendatory Act of the 94th General Assembly, or to verify
7 compliance with applicable terms of probation, parole, or
8 mandatory supervised release.

9 (b) All persons entering a facility under this Section
10 shall promptly notify appropriate facility personnel of their
11 presence. They shall, upon request, produce identification to
12 establish their identity. No such person shall enter the
13 immediate living area of any resident without first identifying
14 himself and then receiving permission from the resident to
15 enter. The rights of other residents present in the room shall
16 be respected. A resident may terminate at any time a visit by a
17 person having access to the resident's living area under this
18 Section.

19 (c) This Section shall not limit the power of the
20 Department or other public agency otherwise permitted or
21 required by law to enter and inspect a facility.

22 (d) Notwithstanding paragraph (a) of this Section, the
23 administrator of a facility may refuse access to the facility
24 to any person if the presence of that person in the facility
25 would be injurious to the health and safety of a resident or
26 would threaten the security of the property of a resident or
27 the facility, or if the person seeks access to the facility for
28 commercial purposes. Any person refused access to a facility
29 may within 10 days request a hearing under Section 3-703. In
30 that proceeding, the burden of proof as to the right of the
31 facility to refuse access under this Section shall be on the
32 facility.

33 (Source: P.A. 94-163, eff. 7-11-05.)

34 (210 ILCS 45/2-201.5)

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

1 (a) All persons age 18 or older seeking admission to a
2 nursing facility must be screened to determine the need for
3 nursing facility services prior to being admitted, regardless
4 of income, assets, or funding source. In addition, any person
5 who seeks to become eligible for medical assistance from the
6 Medical Assistance Program under the Illinois Public Aid Code
7 to pay for long term care services while residing in a facility
8 must be screened prior to receiving those benefits. Screening
9 for nursing facility services shall be administered through
10 procedures established by administrative rule. Screening may
11 be done by agencies other than the Department as established by
12 administrative rule. This Section applies on and after July 1,
13 1996.

14 (b) In addition to the screening required by subsection
15 (a), a facility, except for those licensed as long term care
16 for under age 22 facilities, shall, within 24 hours after
17 admission, request a criminal history background check
18 pursuant to the Uniform Conviction Information Act for all
19 persons age 18 or older seeking admission to the facility.
20 Background checks conducted pursuant to this Section shall be
21 based on the resident's name, date of birth, and other
22 identifiers as required by the Department of State Police. If
23 the results of the background check are inconclusive, the
24 facility shall initiate a fingerprint-based check, unless the
25 fingerprint check is waived by the Director of Public Health
26 based on verification by the facility that the resident is
27 completely immobile or that the resident meets other criteria
28 related to the resident's health or lack of potential risk
29 which may be established by Departmental rule. A waiver issued
30 pursuant to this Section shall be valid only while the resident
31 is immobile or while the criteria supporting the waiver exist.
32 The facility shall provide for or arrange for any required
33 fingerprint-based checks to be taken on the premises of the
34 facility. If a fingerprint-based check is required, the
35 facility shall arrange for it to be conducted in a manner that
36 is respectful of the resident's dignity and that minimizes any

1 emotional or physical hardship to the resident.

2 A facility, except for those licensed as long term care for
3 under age 22 facilities, shall, within 60 days after the
4 effective date of this amendatory Act of the 94th General
5 Assembly, request a criminal history background check pursuant
6 to the Uniform Conviction Information Act for all persons who
7 are residents of the facility on the effective date of this
8 amendatory Act of the 94th General Assembly. The facility shall
9 review the results of the criminal history background checks
10 immediately upon receipt thereof. If the results of the
11 background check are inconclusive, the facility shall initiate
12 a fingerprint-based check unless the fingerprint-based check
13 is waived by the Director of Public Health based on
14 verification by the facility that the resident is completely
15 immobile or that the resident meets other criteria related to
16 the resident's health or lack of potential risk which may be
17 established by Departmental rule. A waiver issued pursuant to
18 this Section shall be valid only while the resident is immobile
19 or while the criteria supporting the waiver exist. The facility
20 shall provide for or arrange for any required fingerprint-based
21 checks to be taken on the premises of the facility. If a
22 fingerprint-based check is required, the facility shall
23 arrange for it to be conducted in a manner that is respectful
24 of the resident's dignity and that minimizes any emotional or
25 physical hardship to the resident.

26 (c) If the results of a resident's criminal history
27 background check reveal that the resident is an identified
28 offender as defined in Section 1-114.01, the facility shall
29 immediately fax the resident's name and criminal history
30 information to the Illinois Department of Public Health, which
31 shall conduct a Criminal History Analysis pursuant to Section
32 2-201.6. The Criminal History Analysis shall be conducted
33 independently of the Illinois Department of Public Health's
34 Office of Healthcare Regulation. The Office of Healthcare
35 Regulation shall have no involvement with the process of
36 reviewing or analyzing the criminal history of identified

1 offenders.

2 (d) The Illinois Department of Public Health shall keep a
3 continuing record of all residents determined to be identified
4 offenders under Section 1-114.01 and shall report the number of
5 identified offender residents annually to the General
6 Assembly. ~~identified offenders who seek admission to a licensed~~
7 ~~facility shall not be admitted unless the licensed facility~~
8 ~~complies with the requirements of the Department's~~
9 ~~administrative rules adopted pursuant to Section 3-202.3.~~

10 (Source: P.A. 94-163, eff. 7-11-05.)

11 (210 ILCS 45/2-201.6 new)

12 Sec. 2-201.6. Criminal History Analysis.

13 (a) The Department shall immediately commence a Criminal
14 History Analysis when it receives information, through the
15 criminal history background check required pursuant to
16 subsection (b) of Section 2-201.5 or through any other means,
17 that a resident of a facility is an identified offender.

18 (b) The Department shall complete the Criminal History
19 Analysis as soon as practicable, but not later than 14 days
20 after receiving notice from the facility under subsection (a).

21 (c) The Criminal History Analysis shall include, but not be
22 limited to, all of the following:

23 (1) Consultation with the identified offender's
24 assigned parole agent or probation officer, if applicable.

25 (2) Consultation with the convicting prosecutor's
26 office.

27 (3) A review of the statement of facts, police reports,
28 and victim impact statements, if available.

29 (4) An interview with the identified offender.

30 (5) Consultation with the facility administrator or
31 facility medical director, or both, regarding the physical
32 condition of the identified offender.

33 (6) Consideration of the entire criminal history of the
34 offender, including the date of the identified offender's
35 last conviction relative to the date of admission to a

1 long-term care facility.

2 (7) If the identified offender is a convicted or
3 registered sex offender, a review of any and all sex
4 offender evaluations conducted on that offender. If there
5 is no sex offender evaluation available, the Department
6 shall provide for a sex offender evaluation to be conducted
7 on the identified offender. If the convicted or registered
8 sex offender is under supervision by the Illinois
9 Department of Corrections or a county probation
10 department, the sex offender evaluation shall be arranged
11 by and at the expense of the supervising agency. All
12 evaluations conducted on convicted or registered sex
13 offenders under this Act shall be conducted by sex offender
14 evaluators approved by the Sex Offender Management Board.

15 (d) The Department shall prepare a Criminal History
16 Analysis Report based on the analysis conducted pursuant to
17 subsection (c). The Report shall include a summary of the Risk
18 Analysis and shall detail whether and to what extent the
19 identified offender's criminal history necessitates the
20 implementation of security measures within the long-term care
21 facility. If the identified offender is a convicted or
22 registered sex offender or if the Department's Criminal History
23 Analysis reveals that the identified offender poses a
24 significant risk of harm to others within the facility, the
25 offender shall be required to have his or her own room within
26 the facility.

27 (e) The Criminal History Analysis Report shall promptly be
28 provided to the following:

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

31 (2) The Chief of Police of the municipality in which
32 the facility is located.

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

34 (f) The facility shall incorporate the Criminal History
35 Analysis Report into the identified offender's care plan
36 created pursuant to 42 CFR 483.20.

1 (g) If, based on the Criminal History Analysis Report, a
2 facility determines that it cannot manage the identified
3 offender resident safely within the facility, it shall commence
4 involuntary transfer or discharge proceedings pursuant to
5 Section 3-402.

6 (h) Except for willful and wanton misconduct, any person
7 authorized to participate in the development of a Criminal
8 History Analysis or Criminal History Analysis Report is immune
9 from criminal or civil liability for any acts or omissions as
10 the result of his or her good faith effort to comply with this
11 Section.

12 (210 ILCS 45/2-216)

13 Sec. 2-216. Notification of identified offenders. Every
14 licensed facility shall provide to every prospective and
15 current resident and resident's guardian, and to every facility
16 employee, a written notice, prescribed by the Illinois
17 Department of Public Health, advising the resident, guardian,
18 or employee of his or her right to ask whether any residents of
19 the facility are identified offenders. The notice shall also be
20 prominently posted within every licensed facility. The notice
21 shall include a statement that information regarding
22 registered sex offenders may be obtained from the Illinois
23 State Police website and that information regarding persons
24 serving terms of parole or mandatory supervised release may be
25 obtained from the Illinois Department of Corrections website.
26 ~~If identified offenders are residents of the licensed facility,~~
27 ~~the licensed facility shall notify every resident or resident's~~
28 ~~guardian in writing that such offenders are residents of the~~
29 ~~licensed facility. The licensed facility shall also provide~~
30 ~~notice to its employees and to visitors to the facility that~~
31 ~~identified offenders are residents.~~

32 (Source: P.A. 94-163, eff. 7-11-05.)

33 (210 ILCS 45/3-202.3 rep.)

34 (210 ILCS 45/3-202.4 rep.)

1 Section 11. The Nursing Home Care Act is amended by
2 repealing Sections 3-202.3 and 3-202.4.

3 Section 15. The Probation and Probation Officers Act is
4 amended by changing Section 12 as follows:

5 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

6 Sec. 12. The duties of probation officers shall be:

7 (1) To investigate as required by Section 5-3-1 of the
8 "Unified Code of Corrections", approved July 26, 1972, as
9 amended, the case of any person to be placed on probation. Full
10 opportunity shall be afforded a probation officer to confer
11 with the person under investigation when such person is in
12 custody.

13 (2) To notify the court of any previous conviction for
14 crime or previous probation of any defendant invoking the
15 provisions of this Act.

16 (3) All reports and notifications required in this Act to
17 be made by probation officers shall be in writing and shall be
18 filed by the clerk in the respective cases.

19 (4) To preserve complete and accurate records of cases
20 investigated, including a description of the person
21 investigated, the action of the court with respect to his case
22 and his probation, the subsequent history of such person, if he
23 becomes a probationer, during the continuance of his probation,
24 which records shall be open to inspection by any judge or by
25 any probation officer pursuant to order of court, but shall not
26 be a public record, and its contents shall not be divulged
27 otherwise than as above provided, except upon order of court.

28 (5) To take charge of and watch over all persons placed on
29 probation under such regulations and for such terms as may be
30 prescribed by the court, and giving to each probationer full
31 instructions as to the terms of his release upon probation and
32 requiring from him such periodical reports as shall keep the
33 officer informed as to his conduct.

34 (6) To develop and operate programs of reasonable public or

1 community service for any persons ordered by the court to
2 perform public or community service, providing, however, that
3 no probation officer or any employee of a probation office
4 acting in the course of his official duties shall be liable for
5 any tortious acts of any person performing public or community
6 service except for wilful misconduct or gross negligence on the
7 part of the probation officer or employee.

8 (7) When any person on probation removes from the county
9 where his offense was committed, it shall be the duty of the
10 officer under whose care he was placed to report the facts to
11 the probation officer in the county to which the probationer
12 has removed; and it shall thereupon become the duty of such
13 probation officer to take charge of and watch over said
14 probationer the same as if the case originated in that county;
15 and for that purpose he shall have the same power and authority
16 over said probationer as if he had been originally placed in
17 said officer's charge; and such officer shall be required to
18 report in writing every 6 months, or more frequently upon
19 request the results of his supervision to the probation officer
20 in whose charge the said probationer was originally placed by
21 the court.

22 (8) To authorize travel permits to individuals under their
23 supervision unless otherwise ordered by the court.

24 (9) To perform such other duties as are provided for in
25 this act or by rules of court and such incidental duties as may
26 be implied from those expressly required.

27 (10) To send written notification to a public housing
28 agency if a person on probation for a felony who is under the
29 supervision of the probation officer informs the probation
30 officer that he or she has resided, resides, or will reside at
31 an address that is a housing facility owned, managed, operated,
32 or leased by that public housing agency.

33 (11) If a person on probation for a felony offense who is
34 under the supervision of the probation officer becomes a
35 resident of a facility licensed or regulated by the Department
36 of Public Health, the Illinois Department of Public Aid, or

1 Illinois Department of Human Services, the probation officer
2 shall within 3 days of the person becoming a resident, notify
3 the licensing or regulating Department and licensed or
4 regulated facility and shall provide the licensed or regulated
5 facility and licensing or regulating Department with copies of
6 the following:

7 (a) (blank) ~~pre sentence investigation reports or~~
8 ~~social investigation reports;~~

9 (b) any applicable probation orders and corresponding
10 compliance plans;

11 (c) the name and contact information for the assigned
12 probation officer.

13 (Source: P.A. 94-163, eff. 7-11-05.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.