



**Filed: 2/16/2006**

09400HB4785ham001

LRB094 18853 DRJ 55842 a

1 AMENDMENT TO HOUSE BILL 4785

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4785 by replacing  
3 everything after the enacting clause with the following:

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, 2-216, and 3-402 and by  
9 adding 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

1 regarding claims for public assistance, medical assistance  
2 and social security benefits, as well as in all other  
3 matters in which residents are aggrieved. Assistance may  
4 include counseling and litigation; or

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

8 (a-5) If a resident of a licensed facility is an identified  
9 offender, any federal, State, or local law enforcement officer  
10 or county probation officer shall be permitted reasonable  
11 access to the individual resident to verify compliance with the  
12 requirements of the Sex Offender Registration Act, to verify  
13 compliance with the requirements of Public Act 94-163 and this  
14 amendatory Act of the 94th General Assembly, or to verify  
15 compliance with applicable terms of probation, parole, or  
16 mandatory supervised release.

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

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

30 (d) Notwithstanding paragraph (a) of this Section, the  
31 administrator of a facility may refuse access to the facility  
32 to any person if the presence of that person in the facility  
33 would be injurious to the health and safety of a resident or  
34 would threaten the security of the property of a resident or

1 the facility, or if the person seeks access to the facility for  
2 commercial purposes. Any person refused access to a facility  
3 may within 10 days request a hearing under Section 3-703. In  
4 that proceeding, the burden of proof as to the right of the  
5 facility to refuse access under this Section shall be on the  
6 facility.

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

8 (210 ILCS 45/2-201.5)

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

10 (a) All persons age 18 or older seeking admission to a  
11 nursing facility must be screened to determine the need for  
12 nursing facility services prior to being admitted, regardless  
13 of income, assets, or funding source. In addition, any person  
14 who seeks to become eligible for medical assistance from the  
15 Medical Assistance Program under the Illinois Public Aid Code  
16 to pay for long term care services while residing in a facility  
17 must be screened prior to receiving those benefits. Screening  
18 for nursing facility services shall be administered through  
19 procedures established by administrative rule. Screening may  
20 be done by agencies other than the Department as established by  
21 administrative rule. This Section applies on and after July 1,  
22 1996.

23 (b) In addition to the screening required by subsection  
24 (a), a facility shall, within 24 hours after admission, request  
25 a criminal history background check pursuant to the Uniform  
26 Conviction Information Act for all persons age 18 or older  
27 seeking admission to the facility. Background checks conducted  
28 pursuant to this Section shall be based on the resident's name,  
29 date of birth, and other identifiers as required by the  
30 Department of State Police. If the results of the background  
31 check are inconclusive, a fingerprint-based check shall be  
32 initiated, unless the fingerprint check is waived by the  
33 Director of Public Health based on verification by the facility

1 that the resident is completely immobile. The facility shall,  
2 within 60 days after the effective date of this amendatory Act  
3 of the 94th General Assembly, request a criminal history  
4 background check pursuant to the Uniform Conviction  
5 Information Act for all persons who are residents of the  
6 facility on the effective date of this amendatory Act of the  
7 94th General Assembly. The facility shall review the results of  
8 the criminal history background checks immediately upon  
9 receipt thereof.

10 (c) If the results of a resident's criminal history  
11 background check reveal that the resident is an identified  
12 offender as defined in Section 1-114.01, the facility shall  
13 immediately fax the resident's name and criminal history  
14 information to the Illinois Department of Public Health, which  
15 shall conduct a Criminal History Analysis pursuant to Section  
16 2-201.6. The Criminal History Analysis shall be conducted  
17 independently of the Illinois Department of Public Health's  
18 Office of Healthcare Regulation. The Office of Healthcare  
19 Regulation shall have no involvement with the process of  
20 reviewing or analyzing the criminal history of identified  
21 offenders.

22 (d) The Illinois Department of Public Health shall keep a  
23 continuing record of all residents determined to be identified  
24 offenders under Section 1-114.01 and shall report the number of  
25 identified offender residents annually to the General  
26 Assembly. ~~identified offenders who seek admission to a licensed~~  
27 ~~facility shall not be admitted unless the licensed facility~~  
28 ~~complies with the requirements of the Department's~~  
29 ~~administrative rules adopted pursuant to Section 3-202.3.~~

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

31 (210 ILCS 45/2-201.6 new)

32 Sec. 2-201.6. Criminal History Analysis.

33 (a) The Department shall immediately commence a Criminal

1 History Analysis when it receives information, through the  
2 criminal history background check required pursuant to  
3 subsection (b) of Section 2-201.5 or through any other means,  
4 that a resident of a facility is an identified offender.

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

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

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

12 (2) Consultation with the convicting prosecutor's  
13 office.

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

16 (4) An interview with the identified offender.

17 (5) Consultation with the facility administrator or  
18 facility medical director, or both, regarding the physical  
19 condition of the identified offender.

20 (6) Consideration of the entire criminal history of the  
21 offender, including the date of the identified offender's  
22 last conviction relative to the date of admission to a  
23 long-term care facility.

24 (7) If the identified offender is a convicted or  
25 registered sex offender, a review of any and all sex  
26 offender evaluations conducted on that offender. If there  
27 is no sex offender evaluation available, the Department  
28 shall provide for a sex offender evaluation to be conducted  
29 on the identified offender. If the convicted or registered  
30 sex offender is under supervision by the Illinois  
31 Department of Corrections or a county probation  
32 department, the sex offender evaluation shall be arranged  
33 by and at the expense of the supervising agency. All  
34 evaluations conducted on convicted or registered sex

1 offenders under this Act shall be conducted by sex offender  
2 evaluators approved by the Sex Offender Management Board.

3 (d) The Department shall prepare a Criminal History  
4 Analysis Report based on the analysis conducted pursuant to  
5 subsection (c). The Report shall include a summary of the Risk  
6 Analysis and shall detail whether and to what extent the  
7 identified offender's criminal history necessitates the  
8 implementation of security measures within the long-term care  
9 facility. If the identified offender is a convicted or  
10 registered sex offender or if the Department's Criminal History  
11 Analysis reveals that the identified offender poses a  
12 significant risk of harm to others within the facility, the  
13 offender shall be required to have his or her own room within  
14 the facility.

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

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

19 (2) The Chief of Police of the municipality in which  
20 the facility is located.

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

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

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

30 (h) Except for willful and wanton misconduct, any person  
31 authorized to participate in the development of a Criminal  
32 History Analysis or Criminal History Analysis Report is immune  
33 from criminal or civil liability for any acts or omissions as  
34 the result of his or her good faith effort to comply with this

1 Section.

2 (210 ILCS 45/2-216)

3 Sec. 2-216. Notification of identified offenders. Every  
4 licensed facility shall provide to every prospective and  
5 current resident and resident's guardian, and to every facility  
6 employee, a written notice, prescribed by the Illinois  
7 Department of Public Health, advising the resident, guardian,  
8 or employee of his or her right to ask whether any residents of  
9 the facility are identified offenders. The notice shall also be  
10 prominently posted within every licensed facility. The notice  
11 shall include a statement that information regarding  
12 registered sex offenders may be obtained from the Department of  
13 State Police at [www.isp.state.il.us](http://www.isp.state.il.us) and that information  
14 regarding persons serving terms of parole or mandatory  
15 supervised release may be obtained from the Illinois Department  
16 of Corrections at [www.idoc.state.il.us](http://www.idoc.state.il.us). ~~If identified~~  
17 ~~offenders are residents of the licensed facility, the licensed~~  
18 ~~facility shall notify every resident or resident's guardian in~~  
19 ~~writing that such offenders are residents of the licensed~~  
20 ~~facility. The licensed facility shall also provide notice to~~  
21 ~~its employees and to visitors to the facility that identified~~  
22 ~~offenders are residents.~~

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

24 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

25 Sec. 3-402. Involuntary transfer or discharge of a resident  
26 from a facility shall be preceded by the discussion required  
27 under Section 3-408 and by a minimum written notice of 21 days,  
28 except in one of the following instances:

29 (a) when an emergency transfer or discharge is ordered by  
30 the resident's attending physician because of the resident's  
31 health care needs; or

32 (b) when the transfer or discharge is mandated by the

1 physical safety of other residents, the facility staff, or  
2 facility visitors, as documented in the clinical record, or  
3 when the resident to be transferred or discharged has been  
4 found to be an identified offender as defined in Section  
5 1-114.01 of this Act and the facility has determined, pursuant  
6 to the Criminal History Analysis Report, that it cannot safely  
7 manage the resident within the facility. The Department shall  
8 be notified prior to any such involuntary transfer or  
9 discharge. The Department shall immediately offer transfer, or  
10 discharge and relocation assistance to residents transferred  
11 or discharged under this subparagraph (b), and the Department  
12 may place relocation teams as provided in Section 3-419 of this  
13 Act.

14 (Source: P.A. 84-1322.)

15 (210 ILCS 45/3-202.3 rep.)

16 (210 ILCS 45/3-202.4 rep.)

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

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

21 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

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

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

29 (2) To notify the court of any previous conviction for  
30 crime or previous probation of any defendant invoking the  
31 provisions of this Act.



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

4           (4) To preserve complete and accurate records of cases  
5 investigated, including a description of the person  
6 investigated, the action of the court with respect to his case  
7 and his probation, the subsequent history of such person, if he  
8 becomes a probationer, during the continuance of his probation,  
9 which records shall be open to inspection by any judge or by  
10 any probation officer pursuant to order of court, but shall not  
11 be a public record, and its contents shall not be divulged  
12 otherwise than as above provided, except upon order of court.

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

19           (6) To develop and operate programs of reasonable public or  
20 community service for any persons ordered by the court to  
21 perform public or community service, providing, however, that  
22 no probation officer or any employee of a probation office  
23 acting in the course of his official duties shall be liable for  
24 any tortious acts of any person performing public or community  
25 service except for wilful misconduct or gross negligence on the  
26 part of the probation officer or employee.

27           (7) When any person on probation removes from the county  
28 where his offense was committed, it shall be the duty of the  
29 officer under whose care he was placed to report the facts to  
30 the probation officer in the county to which the probationer  
31 has removed; and it shall thereupon become the duty of such  
32 probation officer to take charge of and watch over said  
33 probationer the same as if the case originated in that county;  
34 and for that purpose he shall have the same power and authority

1 over said probationer as if he had been originally placed in  
2 said officer's charge; and such officer shall be required to  
3 report in writing every 6 months, or more frequently upon  
4 request the results of his supervision to the probation officer  
5 in whose charge the said probationer was originally placed by  
6 the court.

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

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

12 (10) To send written notification to a public housing  
13 agency if a person on probation for a felony who is under the  
14 supervision of the probation officer informs the probation  
15 officer that he or she has resided, resides, or will reside at  
16 an address that is a housing facility owned, managed, operated,  
17 or leased by that public housing agency.

18 (11) If a person on probation for a felony offense who is  
19 under the supervision of the probation officer becomes a  
20 resident of a facility licensed or regulated by the Department  
21 of Public Health, the Illinois Department of Public Aid, or  
22 Illinois Department of Human Services, the probation officer  
23 shall within 3 days of the person becoming a resident, notify  
24 the licensing or regulating Department and licensed or  
25 regulated facility and shall provide the licensed or regulated  
26 facility and licensing or regulating Department with copies of  
27 the following:

28 (a) (blank) ~~pre sentence investigation reports or~~  
29 ~~social investigation reports;~~

30 (b) any applicable probation orders and corresponding  
31 compliance plans;

32 (c) the name and contact information for the assigned  
33 probation officer.

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

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".