



Rep. James D. Brosnahan

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LRB094 18853 DRJ 56794 a

1 AMENDMENT TO HOUSE BILL 4785

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

5 "(210 ILCS 28/85 rep.)

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

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

11 (210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

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

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

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

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

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

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

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

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

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

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

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

9 (210 ILCS 45/2-201.5)

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

11 (a) All persons age 18 or older seeking admission to a  
12 nursing facility must be screened to determine the need for  
13 nursing facility services prior to being admitted, regardless  
14 of income, assets, or funding source. In addition, any person  
15 who seeks to become eligible for medical assistance from the  
16 Medical Assistance Program under the Illinois Public Aid Code  
17 to pay for long term care services while residing in a facility  
18 must be screened prior to receiving those benefits. Screening  
19 for nursing facility services shall be administered through  
20 procedures established by administrative rule. Screening may  
21 be done by agencies other than the Department as established by  
22 administrative rule. This Section applies on and after July 1,  
23 1996.

24 (b) In addition to the screening required by subsection  
25 (a), a facility, except for those licensed as long term care  
26 for under age 22 facilities, shall, within 24 hours after  
27 admission, request a criminal history background check  
28 pursuant to the Uniform Conviction Information Act for all  
29 persons age 18 or older seeking admission to the facility.  
30 Background checks conducted pursuant to this Section shall be  
31 based on the resident's name, date of birth, and other  
32 identifiers as required by the Department of State Police. If  
33 the results of the background check are inconclusive, the

1 facility shall initiate a fingerprint-based check, unless the  
2 fingerprint check is waived by the Director of Public Health  
3 based on verification by the facility that the resident is  
4 completely immobile or that the resident meets other criteria  
5 related to the resident's health or lack of potential risk  
6 which may be established by Departmental rule. A waiver issued  
7 pursuant to this Section shall be valid only while the resident  
8 is immobile or while the criteria supporting the waiver exist.  
9 The facility shall provide for or arrange for any required  
10 fingerprint-based checks to be taken on the premises of the  
11 facility. If a fingerprint-based check is required, the  
12 facility shall arrange for it to be conducted in a manner that is  
13 respectful of the resident's dignity and that minimizes any  
14 emotional or physical hardship to the resident.

15 A facility, except for those licensed as long term care for  
16 under age 22 facilities, shall, within 60 days after the  
17 effective date of this amendatory Act of the 94th General  
18 Assembly, request a criminal history background check pursuant  
19 to the Uniform Conviction Information Act for all persons who  
20 are residents of the facility on the effective date of this  
21 amendatory Act of the 94th General Assembly. The facility shall  
22 review the results of the criminal history background checks  
23 immediately upon receipt thereof. If the results of the  
24 background check are inconclusive, the facility shall initiate  
25 a fingerprint-based check unless the fingerprint-based check  
26 is waived by the Director of Public Health based on  
27 verification by the facility that the resident is completely  
28 immobile or that the resident meets other criteria related to  
29 the resident's health or lack of potential risk which may be  
30 established by Departmental rule. A waiver issued pursuant to  
31 this Section shall be valid only while the resident is immobile  
32 or while the criteria supporting the waiver exist. The facility  
33 shall provide for or arrange for any required fingerprint-based  
34 checks to be taken on the premises of the facility. If a

1 fingerprint-based check is required, the facility shall  
2 arrange for it to be conducted in a manner that is respectful  
3 of the resident's dignity and that minimizes any emotional or  
4 physical hardship to the resident.

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

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

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

26 (210 ILCS 45/2-201.6 new)

27 Sec. 2-201.6. Criminal History Analysis.

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

33 (b) The Department shall complete the Criminal History

1 Analysis as soon as practicable, but not later than 14 days  
2 after receiving notice from the facility under subsection (a).

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

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

7 (2) Consultation with the convicting prosecutor's  
8 office.

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

11 (4) An interview with the identified offender.

12 (5) Consultation with the facility administrator or  
13 facility medical director, or both, regarding the physical  
14 condition of the identified offender.

15 (6) Consideration of the entire criminal history of the  
16 offender, including the date of the identified offender's  
17 last conviction relative to the date of admission to a  
18 long-term care facility.

19 (7) If the identified offender is a convicted or  
20 registered sex offender, a review of any and all sex  
21 offender evaluations conducted on that offender. If there  
22 is no sex offender evaluation available, the Department  
23 shall provide for a sex offender evaluation to be conducted  
24 on the identified offender. If the convicted or registered  
25 sex offender is under supervision by the Illinois  
26 Department of Corrections or a county probation  
27 department, the sex offender evaluation shall be arranged  
28 by and at the expense of the supervising agency. All  
29 evaluations conducted on convicted or registered sex  
30 offenders under this Act shall be conducted by sex offender  
31 evaluators approved by the Sex Offender Management Board.

32 (d) The Department shall prepare a Criminal History  
33 Analysis Report based on the analysis conducted pursuant to  
34 subsection (c). The Report shall include a summary of the Risk

1 Analysis and shall detail whether and to what extent the  
2 identified offender's criminal history necessitates the  
3 implementation of security measures within the long-term care  
4 facility. If the identified offender is a convicted or  
5 registered sex offender or if the Department's Criminal History  
6 Analysis reveals that the identified offender poses a  
7 significant risk of harm to others within the facility, the  
8 offender shall be required to have his or her own room within  
9 the facility.

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

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

14 (2) The Chief of Police of the municipality in which  
15 the facility is located.

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

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

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

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

31 (210 ILCS 45/2-216)

32 Sec. 2-216. Notification of identified offenders. Every  
33 licensed facility shall provide to every prospective and

1 current resident and resident's guardian, and to every facility  
2 employee, a written notice, prescribed by the Illinois  
3 Department of Public Health, advising the resident, guardian,  
4 or employee of his or her right to ask whether any residents of  
5 the facility are identified offenders. The notice shall also be  
6 prominently posted within every licensed facility. The notice  
7 shall include a statement that information regarding  
8 registered sex offenders may be obtained from the Illinois  
9 State Police website and that information regarding persons  
10 serving terms of parole or mandatory supervised release may be  
11 obtained from the Illinois Department of Corrections website.  
12 ~~If identified offenders are residents of the licensed facility,~~  
13 ~~the licensed facility shall notify every resident or resident's~~  
14 ~~guardian in writing that such offenders are residents of the~~  
15 ~~licensed facility. The licensed facility shall also provide~~  
16 ~~notice to its employees and to visitors to the facility that~~  
17 ~~identified offenders are residents.~~

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

19 (210 ILCS 45/3-202.3 rep.)

20 (210 ILCS 45/3-202.4 rep.)

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

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

25 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

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

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



1 custody.

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

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

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

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

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

31 (7) When any person on probation removes from the county  
32 where his offense was committed, it shall be the duty of the  
33 officer under whose care he was placed to report the facts to  
34 the probation officer in the county to which the probationer

1 has removed; and it shall thereupon become the duty of such  
2 probation officer to take charge of and watch over said  
3 probationer the same as if the case originated in that county;  
4 and for that purpose he shall have the same power and authority  
5 over said probationer as if he had been originally placed in  
6 said officer's charge; and such officer shall be required to  
7 report in writing every 6 months, or more frequently upon  
8 request the results of his supervision to the probation officer  
9 in whose charge the said probationer was originally placed by  
10 the court.

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

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

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

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

32 (a) (blank) ~~pre-sentence investigation reports or~~  
33 ~~social investigation reports;~~

34 (b) any applicable probation orders and corresponding

1 compliance plans;

2 (c) the name and contact information for the assigned  
3 probation officer.

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

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.".