

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 Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall  
9 be open to the public unless excepted in subsection (c) and  
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained  
12 in subsection (c) are in derogation of the requirement that  
13 public bodies meet in the open, and therefore, the exceptions  
14 are to be strictly construed, extending only to subjects  
15 clearly within their scope. The exceptions authorize but do not  
16 require the holding of a closed meeting to discuss a subject  
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to  
19 consider the following subjects:

20 (1) The appointment, employment, compensation,  
21 discipline, performance, or dismissal of specific  
22 employees of the public body or legal counsel for the  
23 public body, including hearing testimony on a complaint  
24 lodged against an employee of the public body or against  
25 legal counsel for the public body to determine its  
26 validity.

27 (2) Collective negotiating matters between the public  
28 body and its employees or their representatives, or  
29 deliberations concerning salary schedules for one or more  
30 classes of employees.

31 (3) The selection of a person to fill a public office,  
32 as defined in this Act, including a vacancy in a public

1 office, when the public body is given power to appoint  
2 under law or ordinance, or the discipline, performance or  
3 removal of the occupant of a public office, when the public  
4 body is given power to remove the occupant under law or  
5 ordinance.

6 (4) Evidence or testimony presented in open hearing, or  
7 in closed hearing where specifically authorized by law, to  
8 a quasi-adjudicative body, as defined in this Act, provided  
9 that the body prepares and makes available for public  
10 inspection a written decision setting forth its  
11 determinative reasoning.

12 (5) The purchase or lease of real property for the use  
13 of the public body, including meetings held for the purpose  
14 of discussing whether a particular parcel should be  
15 acquired.

16 (6) The setting of a price for sale or lease of  
17 property owned by the public body.

18 (7) The sale or purchase of securities, investments, or  
19 investment contracts.

20 (8) Security procedures and the use of personnel and  
21 equipment to respond to an actual, a threatened, or a  
22 reasonably potential danger to the safety of employees,  
23 students, staff, the public, or public property.

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in special  
26 education programs and other matters relating to  
27 individual students.

28 (11) Litigation, when an action against, affecting or  
29 on behalf of the particular public body has been filed and  
30 is pending before a court or administrative tribunal, or  
31 when the public body finds that an action is probable or  
32 imminent, in which case the basis for the finding shall be  
33 recorded and entered into the minutes of the closed  
34 meeting.

35 (12) The establishment of reserves or settlement of  
36 claims as provided in the Local Governmental and

1 Governmental Employees Tort Immunity Act, if otherwise the  
2 disposition of a claim or potential claim might be  
3 prejudiced, or the review or discussion of claims, loss or  
4 risk management information, records, data, advice or  
5 communications from or with respect to any insurer of the  
6 public body or any intergovernmental risk management  
7 association or self insurance pool of which the public body  
8 is a member.

9 (13) Conciliation of complaints of discrimination in  
10 the sale or rental of housing, when closed meetings are  
11 authorized by the law or ordinance prescribing fair housing  
12 practices and creating a commission or administrative  
13 agency for their enforcement.

14 (14) Informant sources, the hiring or assignment of  
15 undercover personnel or equipment, or ongoing, prior or  
16 future criminal investigations, when discussed by a public  
17 body with criminal investigatory responsibilities.

18 (15) Professional ethics or performance when  
19 considered by an advisory body appointed to advise a  
20 licensing or regulatory agency on matters germane to the  
21 advisory body's field of competence.

22 (16) Self evaluation, practices and procedures or  
23 professional ethics, when meeting with a representative of  
24 a statewide association of which the public body is a  
25 member.

26 (17) The recruitment, credentialing, discipline or  
27 formal peer review of physicians or other health care  
28 professionals for a hospital, or other institution  
29 providing medical care, that is operated by the public  
30 body.

31 (18) Deliberations for decisions of the Prisoner  
32 Review Board.

33 (19) Review or discussion of applications received  
34 under the Experimental Organ Transplantation Procedures  
35 Act.

36 (20) The classification and discussion of matters

1 classified as confidential or continued confidential by  
2 the State Employees Suggestion Award Board.

3 (21) Discussion of minutes of meetings lawfully closed  
4 under this Act, whether for purposes of approval by the  
5 body of the minutes or semi-annual review of the minutes as  
6 mandated by Section 2.06.

7 (22) Deliberations for decisions of the State  
8 Emergency Medical Services Disciplinary Review Board.

9 (23) The operation by a municipality of a municipal  
10 utility or the operation of a municipal power agency or  
11 municipal natural gas agency when the discussion involves  
12 (i) contracts relating to the purchase, sale, or delivery  
13 of electricity or natural gas or (ii) the results or  
14 conclusions of load forecast studies.

15 (24) Meetings of a residential health care facility  
16 resident sexual assault and death review team or the  
17 ~~Residential Health Care Facility Resident Sexual Assault~~  
18 ~~and Death Review Teams~~ Executive Council under the Abuse  
19 Prevention ~~Residential Health Care Facility Resident~~  
20 ~~Sexual Assault and Death~~ Review Team Act.

21 (d) Definitions. For purposes of this Section:

22 "Employee" means a person employed by a public body whose  
23 relationship with the public body constitutes an  
24 employer-employee relationship under the usual common law  
25 rules, and who is not an independent contractor.

26 "Public office" means a position created by or under the  
27 Constitution or laws of this State, the occupant of which is  
28 charged with the exercise of some portion of the sovereign  
29 power of this State. The term "public office" shall include  
30 members of the public body, but it shall not include  
31 organizational positions filled by members thereof, whether  
32 established by law or by a public body itself, that exist to  
33 assist the body in the conduct of its business.

34 "Quasi-adjudicative body" means an administrative body  
35 charged by law or ordinance with the responsibility to conduct  
36 hearings, receive evidence or testimony and make

1 determinations based thereon, but does not include local  
2 electoral boards when such bodies are considering petition  
3 challenges.

4 (e) Final action. No final action may be taken at a closed  
5 meeting. Final action shall be preceded by a public recital of  
6 the nature of the matter being considered and other information  
7 that will inform the public of the business being conducted.

8 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,  
9 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

10 Section 10. The Freedom of Information Act is amended by  
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and  
15 copying:

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and regulations  
18 adopted under federal or State law.

19 (b) Information that, if disclosed, would constitute a  
20 clearly unwarranted invasion of personal privacy, unless  
21 the disclosure is consented to in writing by the individual  
22 subjects of the information. The disclosure of information  
23 that bears on the public duties of public employees and  
24 officials shall not be considered an invasion of personal  
25 privacy. Information exempted under this subsection (b)  
26 shall include but is not limited to:

27 (i) files and personal information maintained with  
28 respect to clients, patients, residents, students or  
29 other individuals receiving social, medical,  
30 educational, vocational, financial, supervisory or  
31 custodial care or services directly or indirectly from  
32 federal agencies or public bodies;

33 (ii) personnel files and personal information  
34 maintained with respect to employees, appointees or

1 elected officials of any public body or applicants for  
2 those positions;

3 (iii) files and personal information maintained  
4 with respect to any applicant, registrant or licensee  
5 by any public body cooperating with or engaged in  
6 professional or occupational registration, licensure  
7 or discipline;

8 (iv) information required of any taxpayer in  
9 connection with the assessment or collection of any tax  
10 unless disclosure is otherwise required by State  
11 statute;

12 (v) information revealing the identity of persons  
13 who file complaints with or provide information to  
14 administrative, investigative, law enforcement or  
15 penal agencies; provided, however, that identification  
16 of witnesses to traffic accidents, traffic accident  
17 reports, and rescue reports may be provided by agencies  
18 of local government, except in a case for which a  
19 criminal investigation is ongoing, without  
20 constituting a clearly unwarranted per se invasion of  
21 personal privacy under this subsection; and

22 (vi) the names, addresses, or other personal  
23 information of participants and registrants in park  
24 district, forest preserve district, and conservation  
25 district programs.

26 (c) Records compiled by any public body for  
27 administrative enforcement proceedings and any law  
28 enforcement or correctional agency for law enforcement  
29 purposes or for internal matters of a public body, but only  
30 to the extent that disclosure would:

31 (i) interfere with pending or actually and  
32 reasonably contemplated law enforcement proceedings  
33 conducted by any law enforcement or correctional  
34 agency;

35 (ii) interfere with pending administrative  
36 enforcement proceedings conducted by any public body;

1 (iii) deprive a person of a fair trial or an  
2 impartial hearing;

3 (iv) unavoidably disclose the identity of a  
4 confidential source or confidential information  
5 furnished only by the confidential source;

6 (v) disclose unique or specialized investigative  
7 techniques other than those generally used and known or  
8 disclose internal documents of correctional agencies  
9 related to detection, observation or investigation of  
10 incidents of crime or misconduct;

11 (vi) constitute an invasion of personal privacy  
12 under subsection (b) of this Section;

13 (vii) endanger the life or physical safety of law  
14 enforcement personnel or any other person; or

15 (viii) obstruct an ongoing criminal investigation.

16 (d) Criminal history record information maintained by  
17 State or local criminal justice agencies, except the  
18 following which shall be open for public inspection and  
19 copying:

20 (i) chronologically maintained arrest information,  
21 such as traditional arrest logs or blotters;

22 (ii) the name of a person in the custody of a law  
23 enforcement agency and the charges for which that  
24 person is being held;

25 (iii) court records that are public;

26 (iv) records that are otherwise available under  
27 State or local law; or

28 (v) records in which the requesting party is the  
29 individual identified, except as provided under part

30 (vii) of paragraph (c) of subsection (1) of this  
31 Section.

32 "Criminal history record information" means data  
33 identifiable to an individual and consisting of  
34 descriptions or notations of arrests, detentions,  
35 indictments, informations, pre-trial proceedings, trials,  
36 or other formal events in the criminal justice system or

1 descriptions or notations of criminal charges (including  
2 criminal violations of local municipal ordinances) and the  
3 nature of any disposition arising therefrom, including  
4 sentencing, court or correctional supervision,  
5 rehabilitation and release. The term does not apply to  
6 statistical records and reports in which individuals are  
7 not identified and from which their identities are not  
8 ascertainable, or to information that is for criminal  
9 investigative or intelligence purposes.

10 (e) Records that relate to or affect the security of  
11 correctional institutions and detention facilities.

12 (f) Preliminary drafts, notes, recommendations,  
13 memoranda and other records in which opinions are  
14 expressed, or policies or actions are formulated, except  
15 that a specific record or relevant portion of a record  
16 shall not be exempt when the record is publicly cited and  
17 identified by the head of the public body. The exemption  
18 provided in this paragraph (f) extends to all those records  
19 of officers and agencies of the General Assembly that  
20 pertain to the preparation of legislative documents.

21 (g) Trade secrets and commercial or financial  
22 information obtained from a person or business where the  
23 trade secrets or information are proprietary, privileged  
24 or confidential, or where disclosure of the trade secrets  
25 or information may cause competitive harm, including:

26 (i) All information determined to be confidential  
27 under Section 4002 of the Technology Advancement and  
28 Development Act.

29 (ii) All trade secrets and commercial or financial  
30 information obtained by a public body, including a  
31 public pension fund, from a private equity fund or a  
32 privately held company within the investment portfolio  
33 of a private equity fund as a result of either  
34 investing or evaluating a potential investment of  
35 public funds in a private equity fund. The exemption  
36 contained in this item does not apply to the aggregate

1 financial performance information of a private equity  
2 fund, nor to the identity of the fund's managers or  
3 general partners. The exemption contained in this item  
4 does not apply to the identity of a privately held  
5 company within the investment portfolio of a private  
6 equity fund, unless the disclosure of the identity of a  
7 privately held company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be construed  
9 to prevent a person or business from consenting to disclosure.

10 (h) Proposals and bids for any contract, grant, or  
11 agreement, including information which if it were  
12 disclosed would frustrate procurement or give an advantage  
13 to any person proposing to enter into a contractor  
14 agreement with the body, until an award or final selection  
15 is made. Information prepared by or for the body in  
16 preparation of a bid solicitation shall be exempt until an  
17 award or final selection is made.

18 (i) Valuable formulae, computer geographic systems,  
19 designs, drawings and research data obtained or produced by  
20 any public body when disclosure could reasonably be  
21 expected to produce private gain or public loss. The  
22 exemption for "computer geographic systems" provided in  
23 this paragraph (i) does not extend to requests made by news  
24 media as defined in Section 2 of this Act when the  
25 requested information is not otherwise exempt and the only  
26 purpose of the request is to access and disseminate  
27 information regarding the health, safety, welfare, or  
28 legal rights of the general public.

29 (j) Test questions, scoring keys and other examination  
30 data used to administer an academic examination or  
31 determined the qualifications of an applicant for a license  
32 or employment.

33 (k) Architects' plans, engineers' technical  
34 submissions, and other construction related technical  
35 documents for projects not constructed or developed in  
36 whole or in part with public funds and the same for

1 projects constructed or developed with public funds, but  
2 only to the extent that disclosure would compromise  
3 security, including but not limited to water treatment  
4 facilities, airport facilities, sport stadiums, convention  
5 centers, and all government owned, operated, or occupied  
6 buildings.

7 (l) Library circulation and order records identifying  
8 library users with specific materials.

9 (m) Minutes of meetings of public bodies closed to the  
10 public as provided in the Open Meetings Act until the  
11 public body makes the minutes available to the public under  
12 Section 2.06 of the Open Meetings Act.

13 (n) Communications between a public body and an  
14 attorney or auditor representing the public body that would  
15 not be subject to discovery in litigation, and materials  
16 prepared or compiled by or for a public body in  
17 anticipation of a criminal, civil or administrative  
18 proceeding upon the request of an attorney advising the  
19 public body, and materials prepared or compiled with  
20 respect to internal audits of public bodies.

21 (o) Information received by a primary or secondary  
22 school, college or university under its procedures for the  
23 evaluation of faculty members by their academic peers.

24 (p) Administrative or technical information associated  
25 with automated data processing operations, including but  
26 not limited to software, operating protocols, computer  
27 program abstracts, file layouts, source listings, object  
28 modules, load modules, user guides, documentation  
29 pertaining to all logical and physical design of  
30 computerized systems, employee manuals, and any other  
31 information that, if disclosed, would jeopardize the  
32 security of the system or its data or the security of  
33 materials exempt under this Section.

34 (q) Documents or materials relating to collective  
35 negotiating matters between public bodies and their  
36 employees or representatives, except that any final

1 contract or agreement shall be subject to inspection and  
2 copying.

3 (r) Drafts, notes, recommendations and memoranda  
4 pertaining to the financing and marketing transactions of  
5 the public body. The records of ownership, registration,  
6 transfer, and exchange of municipal debt obligations, and  
7 of persons to whom payment with respect to these  
8 obligations is made.

9 (s) The records, documents and information relating to  
10 real estate purchase negotiations until those negotiations  
11 have been completed or otherwise terminated. With regard to  
12 a parcel involved in a pending or actually and reasonably  
13 contemplated eminent domain proceeding under Article VII  
14 of the Code of Civil Procedure, records, documents and  
15 information relating to that parcel shall be exempt except  
16 as may be allowed under discovery rules adopted by the  
17 Illinois Supreme Court. The records, documents and  
18 information relating to a real estate sale shall be exempt  
19 until a sale is consummated.

20 (t) Any and all proprietary information and records  
21 related to the operation of an intergovernmental risk  
22 management association or self-insurance pool or jointly  
23 self-administered health and accident cooperative or pool.

24 (u) Information concerning a university's adjudication  
25 of student or employee grievance or disciplinary cases, to  
26 the extent that disclosure would reveal the identity of the  
27 student or employee and information concerning any public  
28 body's adjudication of student or employee grievances or  
29 disciplinary cases, except for the final outcome of the  
30 cases.

31 (v) Course materials or research materials used by  
32 faculty members.

33 (w) Information related solely to the internal  
34 personnel rules and practices of a public body.

35 (x) Information contained in or related to  
36 examination, operating, or condition reports prepared by,

1 on behalf of, or for the use of a public body responsible  
2 for the regulation or supervision of financial  
3 institutions or insurance companies, unless disclosure is  
4 otherwise required by State law.

5 (y) Information the disclosure of which is restricted  
6 under Section 5-108 of the Public Utilities Act.

7 (z) Manuals or instruction to staff that relate to  
8 establishment or collection of liability for any State tax  
9 or that relate to investigations by a public body to  
10 determine violation of any criminal law.

11 (aa) Applications, related documents, and medical  
12 records received by the Experimental Organ Transplantation  
13 Procedures Board and any and all documents or other records  
14 prepared by the Experimental Organ Transplantation  
15 Procedures Board or its staff relating to applications it  
16 has received.

17 (bb) Insurance or self insurance (including any  
18 intergovernmental risk management association or self  
19 insurance pool) claims, loss or risk management  
20 information, records, data, advice or communications.

21 (cc) Information and records held by the Department of  
22 Public Health and its authorized representatives relating  
23 to known or suspected cases of sexually transmissible  
24 disease or any information the disclosure of which is  
25 restricted under the Illinois Sexually Transmissible  
26 Disease Control Act.

27 (dd) Information the disclosure of which is exempted  
28 under Section 30 of the Radon Industry Licensing Act.

29 (ee) Firm performance evaluations under Section 55 of  
30 the Architectural, Engineering, and Land Surveying  
31 Qualifications Based Selection Act.

32 (ff) Security portions of system safety program plans,  
33 investigation reports, surveys, schedules, lists, data, or  
34 information compiled, collected, or prepared by or for the  
35 Regional Transportation Authority under Section 2.11 of  
36 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety  
2 Act.

3 (gg) Information the disclosure of which is restricted  
4 and exempted under Section 50 of the Illinois Prepaid  
5 Tuition Act.

6 (hh) Information the disclosure of which is exempted  
7 under the State Officials and Employees Ethics Act.

8 (ii) Beginning July 1, 1999, information that would  
9 disclose or might lead to the disclosure of secret or  
10 confidential information, codes, algorithms, programs, or  
11 private keys intended to be used to create electronic or  
12 digital signatures under the Electronic Commerce Security  
13 Act.

14 (jj) Information contained in a local emergency energy  
15 plan submitted to a municipality in accordance with a local  
16 emergency energy plan ordinance that is adopted under  
17 Section 11-21.5-5 of the Illinois Municipal Code.

18 (kk) Information and data concerning the distribution  
19 of surcharge moneys collected and remitted by wireless  
20 carriers under the Wireless Emergency Telephone Safety  
21 Act.

22 (ll) Vulnerability assessments, security measures, and  
23 response policies or plans that are designed to identify,  
24 prevent, or respond to potential attacks upon a community's  
25 population or systems, facilities, or installations, the  
26 destruction or contamination of which would constitute a  
27 clear and present danger to the health or safety of the  
28 community, but only to the extent that disclosure could  
29 reasonably be expected to jeopardize the effectiveness of  
30 the measures or the safety of the personnel who implement  
31 them or the public. Information exempt under this item may  
32 include such things as details pertaining to the  
33 mobilization or deployment of personnel or equipment, to  
34 the operation of communication systems or protocols, or to  
35 tactical operations.

36 (mm) Maps and other records regarding the location or

1 security of a utility's generation, transmission,  
2 distribution, storage, gathering, treatment, or switching  
3 facilities.

4 (nn) Law enforcement officer identification  
5 information or driver identification information compiled  
6 by a law enforcement agency or the Department of  
7 Transportation under Section 11-212 of the Illinois  
8 Vehicle Code.

9 (oo) Records and information provided to a residential  
10 health care facility resident sexual assault and death  
11 review team or the ~~Residential Health Care Facility  
12 Resident Sexual Assault and Death Review Teams~~ Executive  
13 Council under the Abuse Prevention Residential Health Care  
14 Facility Resident Sexual Assault and Death Review Team Act.

15 (pp) Information provided to the predatory lending  
16 database created pursuant to Article 3 of the Residential  
17 Real Property Disclosure Act, except to the extent  
18 authorized under that Article.

19 (qq) ~~(pp)~~ Defense budgets and petitions for  
20 certification of compensation and expenses for court  
21 appointed trial counsel as provided under Sections 10 and  
22 15 of the Capital Crimes Litigation Act. This subsection  
23 (qq) ~~(pp)~~ shall apply until the conclusion of the trial and  
24 appeal of the case, even if the prosecution chooses not to  
25 pursue the death penalty prior to trial or sentencing.

26 (2) This Section does not authorize withholding of  
27 information or limit the availability of records to the public,  
28 except as stated in this Section or otherwise provided in this  
29 Act.

30 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,  
31 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;  
32 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.  
33 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised  
34 8-29-05.)

35 Section 15. The Abuse Prevention Review Team Act is amended

1 by changing Sections 5, 15, 20, 25, and 40 and by adding  
2 Sections 45 and 50 as follows:

3 (210 ILCS 28/5)

4 (Section scheduled to be repealed on July 1, 2006)

5 Sec. 5. State policy. The following statements are the  
6 policy of this State:

7 (1) Every nursing home resident is entitled to live in  
8 safety and decency and to receive competent and respectful  
9 care that meets the requirements of State and federal law.

10 (2) Responding to sexual assaults of ~~on~~ nursing home  
11 residents and to unnecessary nursing home resident deaths  
12 is a State and a community responsibility.

13 (3) When a nursing home resident is sexually assaulted  
14 or dies unnecessarily, the response by the State and the  
15 community to the assault or death must include an accurate  
16 and complete determination of the cause of the assault or  
17 death and the development and implementation of measures to  
18 prevent future assaults or deaths from similar causes. The  
19 response may include court action, including prosecution  
20 of persons who may be responsible for the assault or death  
21 and proceedings to protect other residents of the facility  
22 where the resident lived, and disciplinary action against  
23 persons who failed to meet their professional  
24 responsibilities to the resident.

25 (4) Professionals from disparate disciplines and  
26 agencies who have responsibilities for nursing home  
27 residents and expertise that can promote resident safety  
28 and well-being should share their expertise and knowledge  
29 so that the goals of determining the causes of sexual  
30 assaults and unnecessary resident deaths, planning and  
31 providing services to surviving residents, and preventing  
32 future assaults and unnecessary deaths can be achieved.

33 (5) A greater understanding of the incidence and causes  
34 of sexual assaults against nursing home residents and  
35 unnecessary nursing home resident deaths is necessary if

1 the State is to prevent future assaults and unnecessary  
2 deaths.

3 (6) Multi-disciplinary and multi-agency reviews of  
4 sexual assaults against nursing home residents and  
5 unnecessary nursing home resident deaths can assist the  
6 State and counties in (i) investigating resident sexual  
7 assaults and deaths, (ii) developing a greater  
8 understanding of the incidence and causes of resident  
9 sexual assault and deaths and the methods for preventing  
10 those assaults and deaths, and (iii) identifying gaps in  
11 services to nursing home residents.

12 (7) Access to information regarding assaulted and  
13 deceased nursing home residents by multi-disciplinary and  
14 multi-agency nursing home resident sexual assault and  
15 death review teams is necessary for those teams to fulfill  
16 ~~achieve~~ their purposes and duties.

17 (Source: P.A. 93-577, eff. 8-21-03.)

18 (210 ILCS 28/15)

19 (Section scheduled to be repealed on July 1, 2006)

20 Sec. 15. Residential health care facility resident sexual  
21 assault and death review teams; establishment.

22 (a) The Director, in consultation with the Executive  
23 Council and with law enforcement agencies and other  
24 professionals who work in the field of investigating, treating,  
25 or preventing nursing home resident abuse or neglect in ~~each of~~  
26 ~~the Department's administrative regions of~~ the State, shall  
27 appoint members to two ~~a~~ residential health care facility  
28 resident sexual assault and death review teams ~~team in each~~  
29 ~~such region outside Cook County and to at least one review team~~  
30 ~~in Cook County.~~ The Director shall appoint more teams if the  
31 Director or the existing teams determine that more teams are  
32 necessary to achieve the purposes of this Act. An Executive  
33 Council shall be organized no later than when at least 4 teams  
34 are formed. The members of a team shall be appointed for 2-year  
35 staggered terms and shall be eligible for reappointment upon

1 the expiration of their terms.

2 (b) Each review team shall consist of at least one member  
3 from each of the following categories:

4 (1) Geriatrician or other physician knowledgeable  
5 about nursing home resident abuse and neglect.

6 (2) Representative of the Department.

7 (3) State's Attorney or State's Attorney's  
8 representative.

9 (4) Representative of a local law enforcement agency.

10 (5) Representative of the Illinois Attorney General.

11 (6) Psychologist or psychiatrist.

12 (7) Representative of a local health department.

13 (8) Representative of a social service or health care  
14 agency that provides services to persons with mental  
15 illness, in a program whose accreditation to provide such  
16 services is recognized by the Office of Mental Health  
17 within the Department of Human Services.

18 (9) Representative of a social service or health care  
19 agency that provides services to persons with  
20 developmental disabilities, in a program whose  
21 accreditation to provide such services is recognized by the  
22 Office of Developmental Disabilities within the Department  
23 of Human Services.

24 (10) Coroner or forensic pathologist.

25 (11) Representative of the local sub-state ombudsman.

26 (12) Representative of a nursing home resident  
27 advocacy organization.

28 (13) Representative of a local hospital, trauma  
29 center, or provider of emergency medical services.

30 (14) Representative of an organization that represents  
31 nursing homes.

32 Each review team may make recommendations to the Director  
33 concerning additional appointments. Each review team member  
34 must have demonstrated experience and an interest in  
35 investigating, treating, or preventing nursing home resident  
36 abuse or neglect.

1 (c) Each review team shall select a chairperson from among  
2 its members. The chairperson shall also serve on the Illinois  
3 Residential Health Care Facility Sexual Assault and Death  
4 Review Teams Executive Council.

5 (Source: P.A. 93-577, eff. 8-21-03.)

6 (210 ILCS 28/20)

7 (Section scheduled to be repealed on July 1, 2006)

8 Sec. 20. Reviews of nursing home resident sexual assaults  
9 and deaths.

10 (a) Every ~~reported~~ case of sexual assault of a nursing home  
11 resident that the Department determined to be valid ~~is~~  
12 ~~confirmed~~ shall be reviewed by the review team for the region  
13 that has primary case management responsibility.

14 (b) Every death of a nursing home resident shall be  
15 reviewed by the review team for the region that has primary  
16 case management responsibility, if the deceased resident is one  
17 of the following:

18 (1) A person whose death is reviewed by the Department  
19 during any regulatory activity, whether or not there were  
20 any federal or State violations ~~care the Department found~~  
21 ~~violated federal or State standards in the 6 months~~  
22 ~~preceding the resident's death.~~

23 (2) A person about whose care the Department received a  
24 complaint alleging that the resident's care violated  
25 federal or State standards so as to contribute to the  
26 resident's death. ~~A person whose care was the subject of a~~  
27 ~~complaint to the Department in the 30 days preceding the~~  
28 ~~resident's death, or after the resident's death.~~

29 (3) A resident whose death is referred to the  
30 Department for investigation by a local coroner, medical  
31 examiner, or law enforcement agency.

32 A review team may, at its discretion, review other sudden,  
33 unexpected, or unexplained nursing home resident deaths. The  
34 Department shall bring such deaths to the attention of the  
35 teams when it determines that doing so will help to achieve the

1 purposes of this Act.

2 (c) ~~(b)~~ A review team's purpose in conducting reviews of  
3 resident sexual assaults and deaths is to do the following:

4 (1) Assist in determining the cause and manner of the  
5 resident's assault or death, when requested.

6 (2) Evaluate means, if any, by which the assault or  
7 death might have been prevented.

8 (3) Report its findings to the Director ~~appropriate~~  
9 ~~agencies~~ and make recommendations that may help to reduce  
10 the number of sexual assaults on and unnecessary deaths of  
11 nursing home residents.

12 (4) Promote continuing education for professionals  
13 involved in investigating, treating, and preventing  
14 nursing home resident abuse and neglect as a means of  
15 preventing sexual assaults and unnecessary deaths of  
16 nursing home residents.

17 (5) Make specific recommendations to the Director  
18 concerning the prevention of sexual assaults and  
19 unnecessary deaths of nursing home residents and the  
20 establishment of protocols for investigating resident  
21 sexual assaults and deaths.

22 (d) ~~(e)~~ A review team must review the ~~a~~ sexual assault or  
23 death cases submitted to it on a quarterly basis. The as soon  
24 ~~as practicable and not later than 90 days following the~~  
25 ~~completion by the Department of the investigation of the~~  
26 ~~assault or death under the Nursing Home Care Act. When there~~  
27 ~~has been no investigation by the Department, the review team~~  
28 ~~must review a sexual assault or death within 90 days after~~  
29 ~~obtaining the information necessary to complete the review from~~  
30 ~~the coroner, pathologist, medical examiner, or law enforcement~~  
31 ~~agency, depending on the nature of the case. A review team must~~  
32 meet at least once in each calendar quarter if there are cases  
33 to be reviewed. The Department shall forward cases pursuant to  
34 subsections (a) and (b) of this Section within 120 days after  
35 completion of the investigation.

36 (e) ~~(d)~~ Within 90 days after receiving recommendations made

1 by a review team under item (5) of subsection (c) ~~(b)~~, the  
2 Director must review those recommendations and respond to the  
3 review team. The Director shall implement recommendations as  
4 feasible and appropriate and shall respond to the review team  
5 in writing to explain the implementation or nonimplementation  
6 of the recommendations.

7 (f) ~~(e)~~ In any instance when a review team does not operate  
8 in accordance with established protocol, the Director, in  
9 consultation and cooperation with the Executive Council, must  
10 take any necessary actions to bring the review team into  
11 compliance with the protocol.

12 (Source: P.A. 93-577, eff. 8-21-03.)

13 (210 ILCS 28/25)

14 (Section scheduled to be repealed on July 1, 2006)

15 Sec. 25. Review team access to information.

16 (a) The Department shall provide to a review team, on the  
17 request of the review team chairperson, all records and  
18 information in the Department's possession that are relevant to  
19 the review team's review of a sexual assault or death described  
20 in subsection (b) of Section 20, including records and  
21 information concerning previous reports or investigations of  
22 suspected abuse or neglect.

23 (b) A review team shall have access to all records and  
24 information that are relevant to its review of a sexual assault  
25 or death and in the possession of a State or local governmental  
26 agency. These records and information include, without  
27 limitation, death certificates, all relevant medical and  
28 mental health records, records of law enforcement agency  
29 investigations, records of coroner or medical examiner  
30 investigations, records of the Department of Corrections  
31 concerning a person's parole, records of a probation and court  
32 services department, and records of a social services agency  
33 that provided services to the resident.

34 (Source: P.A. 93-577, eff. 8-21-03.)

1 (210 ILCS 28/40)

2 (Section scheduled to be repealed on July 1, 2006)

3 Sec. 40. Executive Council.

4 (a) The Illinois Residential Health Care Facility Resident  
5 Sexual Assault and Death Review Teams Executive Council,  
6 consisting of the chairperson of each review team established  
7 under Section 15, is the coordinating and oversight body for  
8 residential health care facility resident sexual assault and  
9 death review teams and activities in Illinois. The  
10 vice-chairperson of a review team, as designated by the  
11 chairperson, may serve as a back-up member or an alternate  
12 member of the Executive Council, if the chairperson of the  
13 review team is unavailable to serve on the Executive Council.  
14 The Director may appoint to the Executive Council any  
15 ex-officio members deemed necessary. Persons with expertise  
16 needed by the Executive Council may be invited to meetings. The  
17 Executive Council must select from its members a chairperson  
18 and a vice-chairperson, each to serve a 2-year, renewable term.  
19 The Executive Council must meet at least 4 times during each  
20 calendar year if there is business to discuss.

21 (b) The Department must provide or arrange for the staff  
22 support necessary for the review teams and Executive Council to  
23 assist them in carrying ~~carry~~ out their ~~its~~ duties.

24 (c) The Executive Council has, but is not limited to, the  
25 following duties:

26 (1) To request assistance from the Department as needed  
27 ~~serve as the voice of review teams in Illinois~~.

28 (2) To consult with the Director concerning the  
29 appointment, reappointment, and removal of review team  
30 members.

31 (3) To ~~oversee the review teams in order to~~ ensure that  
32 the teams' work is coordinated and in compliance with the  
33 statutes and the operating protocol.

34 (4) To ensure that the data, results, findings, and  
35 recommendations of the review teams are adequately used to  
36 make any necessary changes in the policies, procedures, and

1 statutes in order to protect nursing home residents in a  
2 timely manner.

3 (5) To collaborate with ~~the General Assembly,~~ the  
4 Department, ~~and others~~ in order to develop any legislation  
5 needed to prevent nursing home resident sexual assaults and  
6 unnecessary deaths and to protect nursing home residents.

7 (6) To assist in the development of an ~~quarterly and~~  
8 annual report ~~reports~~ based on the work and the findings of  
9 the review teams.

10 (7) To ensure that the review teams' review processes  
11 are standardized in order to convey data, findings, and  
12 recommendations in a usable format.

13 (8) To serve as a link with other review teams  
14 throughout the country and to participate in national  
15 review team activities.

16 (9) To provide for training ~~develop an annual statewide~~  
17 ~~symposium~~ to update the knowledge and skills of review team  
18 members and to promote the exchange of information between  
19 review teams.

20 (10) To provide the review teams with the most current  
21 information and practices concerning nursing home resident  
22 sexual assault and unnecessary death review and related  
23 topics.

24 (11) To perform any other functions necessary to  
25 enhance the capability of the review teams to reduce and  
26 prevent sexual assaults and unnecessary deaths of nursing  
27 home residents.

28 (d) Until an Executive Council is formed, the Department  
29 shall assist the review teams in performing the duties  
30 described in subsection (c).

31 (Source: P.A. 93-577, eff. 8-21-03.)

32 (210 ILCS 28/45 new)

33 Sec. 45. Department's annual report. The Department shall  
34 include in its annual Long-Term Care Report to the General  
35 Assembly a report of the activities of the review teams and

1 Executive Council, the results of the review teams' findings,  
2 recommendations made to the Department by the review teams and  
3 the Executive Council, and, as applicable, either (i) the  
4 implementation of the recommendations or (ii) the reasons the  
5 recommendations were not implemented.

6 (210 ILCS 28/50 new)

7 Sec. 50. Funding. Notwithstanding any other provision of  
8 law, to the extent permitted by federal law, the Department  
9 shall use moneys from fines paid by facilities licensed under  
10 the Nursing Home Care Act for violating requirements for  
11 certification under Titles XVIII and XIX of the Social Security  
12 Act to implement the provisions of this Act. The Department  
13 shall use moneys deposited in the Long Term Care  
14 Monitor/Receiver Fund to pay the costs of implementing this Act  
15 that cannot be met by the use of federal civil monetary  
16 penalties.

17 (210 ILCS 28/85 rep.)

18 Section 16. The Abuse Prevention Review Team Act is amended  
19 by repealing Section 85.

20 Section 20. The Nursing Home Care Act is amended by  
21 changing Section 3-103 as follows:

22 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

23 Sec. 3-103. The procedure for obtaining a valid license  
24 shall be as follows:

25 (1) Application to operate a facility shall be made to the  
26 Department on forms furnished by the Department.

27 (2) All license applications shall be accompanied with an  
28 application fee. The fee for an annual license shall be \$995.  
29 Facilities that pay a fee or assessment pursuant to Article V-C  
30 of the Illinois Public Aid Code shall be exempt from the  
31 license fee imposed under this item (2). The fee for a 2-year  
32 license shall be double the fee for the annual license set

1 forth in the preceding sentence. The fees collected shall be  
2 deposited with the State Treasurer into the Long Term Care  
3 Monitor/Receiver Fund, which has been created as a special fund  
4 in the State treasury. This special fund is to be used by the  
5 Department for expenses related to the appointment of monitors  
6 and receivers as contained in Sections 3-501 through 3-517 of  
7 this Act and for implementation of the Abuse Prevention Review  
8 Team Act. At the end of each fiscal year, any funds in excess  
9 of \$1,000,000 held in the Long Term Care Monitor/Receiver Fund  
10 shall be deposited in the State's General Revenue Fund. The  
11 application shall be under oath and the submission of false or  
12 misleading information shall be a Class A misdemeanor. The  
13 application shall contain the following information:

14 (a) The name and address of the applicant if an  
15 individual, and if a firm, partnership, or association, of  
16 every member thereof, and in the case of a corporation, the  
17 name and address thereof and of its officers and its  
18 registered agent, and in the case of a unit of local  
19 government, the name and address of its chief executive  
20 officer;

21 (b) The name and location of the facility for which a  
22 license is sought;

23 (c) The name of the person or persons under whose  
24 management or supervision the facility will be conducted;

25 (d) The number and type of residents for which  
26 maintenance, personal care, or nursing is to be provided;  
27 and

28 (e) Such information relating to the number,  
29 experience, and training of the employees of the facility,  
30 any management agreements for the operation of the  
31 facility, and of the moral character of the applicant and  
32 employees as the Department may deem necessary.

33 (3) Each initial application shall be accompanied by a  
34 financial statement setting forth the financial condition of  
35 the applicant and by a statement from the unit of local  
36 government having zoning jurisdiction over the facility's

1 location stating that the location of the facility is not in  
2 violation of a zoning ordinance. An initial application for a  
3 new facility shall be accompanied by a permit as required by  
4 the "Illinois Health Facilities Planning Act". After the  
5 application is approved, the applicant shall advise the  
6 Department every 6 months of any changes in the information  
7 originally provided in the application.

8 (4) Other information necessary to determine the identity  
9 and qualifications of an applicant to operate a facility in  
10 accordance with this Act shall be included in the application  
11 as required by the Department in regulations.

12 (Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04.)

13 Section 25. The Health Care Worker Background Check Act is  
14 amended by changing Section 70 as follows:

15 (225 ILCS 46/70)

16 Sec. 70. Centers for Medicare and Medicaid Services (CMMS)  
17 grant.

18 (a) In this Section:

19 "Centers for Medicare and Medicaid Services (CMMS) grant"  
20 means the grant awarded to and distributed by the Department of  
21 Public Health to enhance the conduct of criminal history  
22 records checks of certain health care employees. The CMMS grant  
23 is authorized by Section 307 of the federal Medicare  
24 Prescription Drug, Improvement, and Modernization Act of 2003,  
25 which establishes the framework for a program to evaluate  
26 national and state background checks on prospective employees  
27 with direct access to patients of long-term care facilities or  
28 providers.

29 "Selected health care employer" means any of the following  
30 selected to participate in the CMMS grant:

31 (1) a community living facility as defined in the  
32 Community Living Facility Act;

33 (2) a long-term care facility as defined in the Nursing  
34 Home Care Act;

1 (3) a home health agency as defined in the Home Health  
2 Agency Licensing Act;

3 (4) a full hospice as defined in the Hospice Licensing  
4 Act;

5 (5) an establishment licensed under the Assisted  
6 Living and Shared Housing Act;

7 (6) a supportive living facility as defined in the  
8 Illinois Public Aid Code;

9 (7) a day training program certified by the Department  
10 of Human Services; ~~or~~

11 (8) a community integrated living arrangement operated  
12 by a community mental health and developmental service  
13 agency as defined in the Community Integrated Living  
14 Arrangements Licensing and Certification Act; or

15 (9) a long-term care hospital or hospital with swing  
16 beds.

17 (b) Selected health care employers shall be phased in to  
18 participate in the CMMS grant between January 1, 2006 and  
19 January 1, 2007, as prescribed by the Department of Public  
20 Health by rule.

21 (c) With regards to individuals hired on or after January  
22 1, 2006 who have direct access to residents, patients, or  
23 clients of the selected health care employer, selected health  
24 care employers must comply with Section 25 of this Act.

25 "Individuals who have direct access" includes, but is not  
26 limited to, (i) direct care workers as described in subsection  
27 (a) of Section 25; (ii) individuals licensed by the Department  
28 of Financial and Professional Regulation, such as nurses,  
29 social workers, physical therapists, occupational therapists,  
30 and pharmacists; (iii) individuals who provide services on  
31 site, through contract; and (iv) non-direct care workers, such  
32 as those who work in environmental services, food service, and  
33 administration.

34 "Individuals who have direct access" does not include  
35 physicians or volunteers.

36 The Department of Public Health may further define

1 "individuals who have direct access" by rule.

2 (d) Each applicant seeking employment in a position  
3 described in subsection (c) of this Section with a selected  
4 health care employer shall, as a condition of employment, have  
5 his or her fingerprints submitted to the Department of State  
6 Police in an electronic format that complies with the form and  
7 manner for requesting and furnishing criminal history record  
8 information by the Department of State Police and the Federal  
9 Bureau of Investigation criminal history record databases now  
10 and hereafter filed. The Department of State Police shall  
11 forward the fingerprints to the Federal Bureau of Investigation  
12 for a national criminal history records check. The Department  
13 of State Police shall charge a fee for conducting the criminal  
14 history records check, which shall not exceed the actual cost  
15 of the records check and shall be deposited into the State  
16 Police Services Fund. The Department of State Police shall  
17 furnish, pursuant to positive identification, records of  
18 Illinois convictions to the Department of Public Health.

19 (e) A selected health care employer who makes a conditional  
20 offer of employment to an applicant shall:

21 (1) ensure that the applicant has complied with the  
22 fingerprinting requirements of this Section;

23 (2) complete documentation relating to any criminal  
24 history record, as revealed by the applicant, as prescribed  
25 by rule by the Department of Public Health;

26 (3) complete documentation of the applicant's personal  
27 identifiers as prescribed by rule by the Department of  
28 Public Health; and

29 (4) provide supervision, as prescribed by rule by the  
30 licensing agency, if the applicant is hired and allowed to  
31 work prior to the results of the criminal history records  
32 check being obtained.

33 (f) A selected health care employer having actual knowledge  
34 from a source that an individual with direct access to a  
35 resident, patient, or client has been convicted of committing  
36 or attempting to commit one of the offenses enumerated in

1 Section 25 of this Act shall contact the licensing agency or  
2 follow other instructions as prescribed by administrative  
3 rule.

4 (g) A fingerprint-based criminal history records check  
5 submitted in accordance with subsection (d) of this Section  
6 must be submitted as a fee applicant inquiry in the form and  
7 manner prescribed by the Department of State Police.

8 (h) This Section shall be inapplicable upon the conclusion  
9 of the CMMS grant.

10 (Source: P.A. 94-665, eff. 1-1-06.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.