



Judiciary II - Criminal Law Committee

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09500HB1728ham001

LRB095 09794 RAS 33783 a

1 AMENDMENT TO HOUSE BILL 1728

2 AMENDMENT NO. _____. Amend House Bill 1728 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Health Care Worker Background Check Act is
5 amended by changing Sections 15, 20, 25, 40, 45, 50, 55, and 60
6 and by adding Section 33 as follows:

7 (225 ILCS 46/15)

8 Sec. 15. Definitions. ~~In For the purposes of this Act, the~~
9 ~~following definitions apply:~~

10 "Applicant" means an individual seeking employment with a
11 health care employer who has received a bona fide conditional
12 offer of employment.

13 "Conditional offer of employment" means a bona fide offer
14 of employment by a health care employer to an applicant, which
15 is contingent upon the receipt of a report from the Department
16 of Public Health ~~State Police~~ indicating that the applicant

1 does not have a record of conviction of any of the criminal
2 offenses enumerated in Section 25.

3 "Direct care" means the provision of nursing care or
4 assistance with feeding, dressing, movement, bathing,
5 toileting, or other personal needs, including home services as
6 defined in the Home Health, Home Services, and Home Nursing
7 Agency Licensing Act. The entity responsible for inspecting and
8 licensing, certifying, or registering the health care employer
9 may, by administrative rule, prescribe guidelines for
10 interpreting this definition with regard to the health care
11 employers that it licenses.

12 "Disqualifying offenses" means those offenses set forth in
13 Section 25 of this Act.

14 "Employee" means any individual hired, employed, or
15 retained to which this Act applies.

16 "Fingerprint-based criminal history records check" means a
17 livescan fingerprint-based criminal history records check
18 submitted as a fee applicant inquiry in the form and manner
19 prescribed by the Department of State Police.

20 "Health care employer" means:

21 (1) the owner or licensee of any of the following:

22 (i) a community living facility, as defined in the
23 Community Living Facilities Act;

24 (ii) a life care facility, as defined in the Life
25 Care Facilities Act;

26 (iii) a long-term care facility, ~~as defined in the~~

1 ~~Nursing Home Care Act;~~

2 (iv) a home health agency, home services agency, or
3 home nursing agency as defined in the Home Health, Home
4 Services, and Home Nursing Agency Licensing Act;

5 (v) a ~~comprehensive~~ hospice care program or
6 volunteer hospice program, as defined in the Hospice
7 Program Licensing Act;

8 (vi) a hospital, as defined in the Hospital
9 Licensing Act;

10 (vii) (blank); a ~~community residential~~
11 ~~alternative, as defined in the Community Residential~~
12 ~~Alternatives Licensing Act;~~

13 (viii) a nurse agency, as defined in the Nurse
14 Agency Licensing Act;

15 (ix) a respite care provider, as defined in the
16 Respite Program Act;

17 (ix-a) an establishment licensed under the
18 Assisted Living and Shared Housing Act;

19 (x) a supportive living program, as defined in the
20 Illinois Public Aid Code;

21 (xi) early childhood intervention programs as
22 described in 59 Ill. Adm. Code 121;

23 (xii) the University of Illinois Hospital,
24 Chicago;

25 (xiii) programs funded by the Department on Aging
26 through the Community Care Program;

1 (xiv) programs certified to participate in the
2 Supportive Living Program authorized pursuant to
3 Section 5-5.01a of the Illinois Public Aid Code;

4 (xv) programs listed by the Emergency Medical
5 Services (EMS) Systems Act as Freestanding Emergency
6 Centers;

7 (xvi) locations licensed under the Alternative
8 Health Care Delivery Act;

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

11 (3) 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 (4) the State Long Term Care Ombudsman Program,
16 including any regional long term care ombudsman programs
17 under Section 4.04 of the Illinois Act on the Aging, only
18 for the purpose of securing background checks.

19 "Initiate" means ~~the obtaining of the authorization for a~~
20 ~~record check~~ from a student, applicant, or employee his or her
21 social security number, demographics, a disclosure statement,
22 and an authorization for the Department of Public Health or its
23 designee to request a fingerprint-based criminal history
24 records check; transmitting this information electronically to
25 the Department of Public Health; conducting Internet searches
26 on certain web sites, including without limitation the Illinois

1 Sex Offender Registry, the Department of Corrections' Sex
2 Offender Search Engine, the Department of Corrections' Inmate
3 Search Engine, the Department of Corrections Wanted Fugitives
4 Search Engine, the National Sex Offender Public Registry, and
5 the website of the Health and Human Services Office of
6 Inspector General to determine if the applicant has been
7 adjudicated a sex offender, has been a prison inmate, or has
8 committed Medicare or Medicaid fraud, or conducting similar
9 searches as defined by rule; and having the student, applicant,
10 or employee's fingerprints collected and transmitted
11 electronically to the Department of State Police. The
12 educational entity or health care employer or its designee
13 shall transmit all necessary information and fees to the
14 Illinois State Police within 10 working days after receipt of
15 the authorization.

16 "Livescan vendor" means an entity that has been certified
17 by the Department of State Police and the Department of Public
18 Health to collect an individual's demographics and inkless
19 fingerprints and, in a manner prescribed by the Department of
20 State Police and the Department of Public Health,
21 electronically transmit the fingerprints and required data to
22 the Illinois State Police and a daily file of required data to
23 the Department of Public Health. The Department of Public
24 Health shall certify a vendor that effectively demonstrates
25 that the vendor has 2 or more years of experience transmitting
26 fingerprints electronically to the Department of State Police

1 and that the vendor can successfully transmit the required data
2 in a manner prescribed by the Department of Public Health.
3 Vendor certification may be further defined by administrative
4 rule.

5 "Long-term care facility" means a facility licensed by the
6 State or certified under federal law as a long-term care
7 facility, including without limitation facilities licensed
8 under the Nursing Home Care Act, a supportive living facility,
9 an assisted living establishment, or a shared housing
10 establishment or registered as a board and care home.

11 (Source: P.A. 93-878, eff. 1-1-05; 94-379, eff. 1-1-06; 94-570,
12 eff. 8-12-05; 94-665, eff. 1-1-06; revised 8-29-05.)

13 (225 ILCS 46/20)

14 Sec. 20. Exceptions. ~~(1)~~ This Act shall not apply to:

15 (1) ~~(a)~~ an individual who is licensed by the Department
16 of Financial and Professional Regulation or the Department
17 of Public Health under another law of this State;

18 (2) ~~(b)~~ an individual employed or retained by a health
19 care employer for whom a criminal background check is
20 required by another law of this State; or

21 (3) ~~(c)~~ a student in a licensed health care field
22 including, but not limited to, a student nurse, a physical
23 therapy student, or a respiratory care student unless he or
24 she is (i) employed by a health care employer in a position
25 with duties involving direct care for clients, patients, or

1 residents or (ii) employed by a long-term care facility in
2 a position that involves or may involve contact with
3 residents or access to the living quarters or the
4 financial, medical, or personal records of residents.

5 ~~(2) A UCIA criminal history records check need not be~~
6 ~~redone by the University of Illinois Hospital, Chicago (U of I)~~
7 ~~or a program funded by the Department on Aging through the~~
8 ~~Community Care Program (CCP) if the U of I or the CCP: (i) has~~
9 ~~done a UCIA check on the individual; (ii) has continuously~~
10 ~~employed the individual since the UCIA criminal records check~~
11 ~~was done; and (iii) has taken actions with respect to this Act~~
12 ~~within 12 months after the effective date of this amendatory~~
13 ~~Act of the 91st General Assembly.~~

14 (Source: P.A. 91-598, eff. 1-1-00.)

15 (225 ILCS 46/25)

16 Sec. 25. Persons ineligible to be hired by health care
17 employers and long-term care facilities.

18 (a) In the discretion of the Director of Public Health, as
19 soon after ~~After~~ January 1, 1996, January 1, 1997, January 1,
20 2006, or October 1, 2007 ~~or the effective date of this~~
21 ~~amendatory Act of the 94th General Assembly, as applicable, and~~
22 as is reasonably practical, no health care employer shall
23 knowingly hire, employ, or retain any individual in a position
24 with duties involving direct care for clients, patients, or
25 residents, and no long-term care facility shall knowingly hire,

1 employ, or retain any individual in a position with duties that
2 involve or may involve contact with residents or access to the
3 living quarters or the financial, medical, or personal records
4 of residents, who has been convicted of committing or
5 attempting to commit one or more of the offenses defined in
6 Sections 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1,
7 9-3.2, 9-3.3, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-6,
8 11-9.1, 11-9.5, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.1,
9 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6,
10 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16,
11 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3,
12 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1,
13 24-1, 24-1.2, 24-1.5, or 33A-2 of the Criminal Code of 1961;
14 those provided in Section 4 of the Wrongs to Children Act;
15 those provided in Section 53 of the Criminal Jurisprudence Act;
16 those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis
17 Control Act; those defined in the Methamphetamine Control and
18 Community Protection Act; or those defined in Sections 401,
19 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
20 Controlled Substances Act, unless the applicant or employee
21 obtains a waiver pursuant to Section 40.

22 (a-1) In the discretion of the Director of Public Health,
23 as soon after ~~After~~ January 1, 2004 or October 1, 2007, as
24 applicable, and as is reasonably practical, no health care
25 employer shall knowingly hire any individual in a position with
26 duties involving direct care for clients, patients, or

1 residents, and no long-term care facility shall knowingly hire
2 any individual in a position with duties that involve or may
3 involve contact with residents or access to the living quarters
4 or the financial, medical, or personal records of residents,
5 who has (i) been convicted of committing or attempting to
6 commit one or more of the offenses defined in Section 12-3.3,
7 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1,
8 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of
9 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card
10 and Debit Card Act; or Section 5.1 of the Wrongs to Children
11 Act; or (ii) violated Section 10-5 of the Nursing and Advanced
12 Practice Nursing Act, unless the applicant or employee obtains
13 a waiver pursuant to Section 40 of this Act.

14 ~~A UCIA criminal history record check need not be redone for~~
15 ~~health care employees who have been continuously employed by a~~
16 ~~health care employer since January 1, 2004, but nothing in this~~
17 ~~Section prohibits a health care employer from initiating a~~
18 ~~criminal history check for these employees.~~

19 A health care employer is not required to retain an
20 individual in a position with duties involving direct care for
21 clients, patients, or residents, and no long-term care facility
22 is required to retain an individual in a position with duties
23 that involve or may involve contact with residents or access to
24 the living quarters or the financial, medical, or personal
25 records of residents, who has been convicted of committing or
26 attempting to commit one or more of the offenses enumerated in

1 this subsection.

2 (b) A health care employer shall not hire, employ, or
3 retain any individual in a position with duties involving
4 direct care of clients, patients, or residents, and no
5 long-term care facility shall knowingly hire, employ, or retain
6 any individual in a position with duties that involve or may
7 involve contact with residents or access to the living quarters
8 or the financial, medical, or personal records of residents, if
9 the health care employer becomes aware that the individual has
10 been convicted in another state of committing or attempting to
11 commit an offense that has the same or similar elements as an
12 offense listed in subsection (a) or (a-1), as verified by court
13 records, records from a state agency, or an FBI criminal
14 history record check, unless the applicant or employee obtains
15 a waiver pursuant to Section 40 of this Act. This shall not be
16 construed to mean that a health care employer has an obligation
17 to conduct a criminal history records check in other states in
18 which an employee has resided.

19 (Source: P.A. 93-224, eff. 7-18-03; 94-556, eff. 9-11-05;
20 94-665, eff. 1-1-06; 94-1053, eff. 7-24-06.)

21 (225 ILCS 46/33 new)

22 Sec. 33. Fingerprint-based criminal history records check.

23 (a) On October 1, 2007 or as soon thereafter as is
24 reasonably practical, in the discretion of the Director of
25 Public Health, and thereafter, any student, applicant, or

1 employee who desires to be included on the Department of Public
2 Health's Health Care Worker Registry must authorize the
3 Department of Public Health or its designee to request a
4 fingerprint-based criminal history records check to determine
5 if the individual has a conviction for a disqualifying offense.
6 This authorization shall allow the Department of Public Health
7 to request and receive information and assistance from any
8 State or local governmental agency. Each individual shall
9 submit his or her fingerprints to the Department of State
10 Police in an electronic format that complies with the form and
11 manner for requesting and furnishing criminal history record
12 information prescribed by the Department of State Police. The
13 fingerprints submitted under this Section shall be checked
14 against the fingerprint records now and hereafter filed in the
15 Department of State Police criminal history record databases.
16 The Department of State Police shall charge a fee for
17 conducting the criminal history records check, which shall not
18 exceed the actual cost of the records check. The livescan
19 vendor may act as the designee for individuals, educational
20 entities, or health care employers in the collection of
21 Department of State Police fees and deposit those fees into the
22 State Police Services Fund. The Department of State Police
23 shall provide information concerning any criminal convictions,
24 now or hereafter filed, against the individual. The Department
25 of Public Health may require the individual, educational
26 entity, or healthcare employer to pay a separate fingerprinting

1 fee to a livescan vendor for collecting the fingerprints and
2 electronically transmitting them to the Department of State
3 Police.

4 (b) On October 1, 2007 or as soon thereafter as is
5 reasonably practical, in the discretion of the Director of
6 Public Health, and thereafter, an educational entity, other
7 than a secondary school, conducting a nurse aide training
8 program must initiate a fingerprint-based criminal history
9 records check requested by the Department of Public Health
10 prior to entry of an individual into the training program.

11 (c) On October 1, 2007 or as soon thereafter as is
12 reasonably practical, in the discretion of the Director of
13 Public Health, and thereafter, a health care employer who makes
14 a conditional offer of employment to an applicant for a
15 position as an employee must initiate a fingerprint-based
16 criminal history record check, requested by the Department of
17 Public Health, on the applicant, if such a background check has
18 not been previously conducted.

19 (d) When initiating a background check requested by the
20 Department of Public Health, an educational entity or health
21 care employer shall electronically submit to the Department of
22 Public Health the student's, applicant's, or employee's social
23 security number, demographics, disclosure, and authorization
24 information in a format prescribed by the Department of Public
25 Health within 2 working days after the authorization is
26 secured. The student, applicant, or employee must have his or

1 her fingerprints collected electronically and transmitted to
2 the Department of State Police within 10 working days. The
3 educational entity or health care employer must transmit all
4 necessary information and fees to the livescan vendor and
5 Department of State Police within 10 working days after receipt
6 of the authorization. This information and the results of the
7 criminal history record checks shall be maintained by the
8 Department of Public Health's Health Care Worker Registry.

9 (e) Any employee who met the background check requirements
10 of this Act prior to October 1, 2007, and who has been
11 continuously employed by a health care employer since October
12 1, 2007, must have a fingerprint-based criminal history record
13 check requested by the Department of Public Health initiated by
14 October 1, 2010.

15 (e-5) A direct care employer may initiate a
16 fingerprint-based background check requested by the Department
17 of Public Health for any of its employees, but may not use this
18 process to initiate background checks for residents. The
19 results of any fingerprint-based background check that is
20 initiated with the Department as the requestor shall be entered
21 in the Health Care Worker Registry.

22 (f) As long as the employee has had a fingerprint-based
23 criminal history record check requested by the Department of
24 Public Health and stays active on the Health Care Worker
25 Registry, no further criminal history record checks shall be
26 deemed necessary, as the Department of State Police shall

1 notify the Department of Public Health of any additional
2 convictions associated with the fingerprints previously
3 submitted. Health care employers are required to check the
4 Health Care Worker Registry before hiring an employee to
5 determine that the individual has had a fingerprint-based
6 record check requested by the Department of Public Health and
7 has no disqualifying convictions or has been granted a waiver
8 pursuant to Section 40 of this Act. If the individual has not
9 had such a background check or is not active on the Health Care
10 Worker Registry, then the health care employer must initiate a
11 fingerprint-based record check requested by the Department of
12 Public Health.

13 (g) On October 1, 2007 or as soon thereafter as is
14 reasonably practical, in the discretion of the Director of
15 Public Health, and thereafter, if the Department of State
16 Police notifies the Department of Public Health that an
17 employee has a new conviction of a disqualifying offense, based
18 upon the fingerprints that were previously submitted, the
19 Health Care Worker Registry shall notify the last known
20 employer of the offense, enter a record that the worker has a
21 disqualifying offense on the Health Care Worker Registry. The
22 individual shall no longer be eligible to work as an employee
23 unless the individual obtains a waiver pursuant to Section 40
24 of this Act.

25 (h) On October 1, 2007 or as soon thereafter as is
26 reasonably practical, in the discretion of the Director of

1 Public Health, and thereafter, if the Department of State
2 Police notifies the Department of Public Health that an
3 employee has a new conviction of a disqualifying offense, based
4 upon the fingerprints that were previously submitted, then (i)
5 the Health Care Worker Registry shall notify the employee's
6 last known employer of the offense, (ii) a record of the
7 employee's disqualifying offense shall be entered on the Health
8 Care Worker Registry, and (iii) the individual shall no longer
9 be eligible to work as an employee unless he or she obtains a
10 waiver pursuant to Section 40 of this Act.

11 (i) The Department of Public Health shall notify each
12 health care employer or long-term care facility inquiring as to
13 the information on the Health Care Worker Registry if the
14 applicant or employee listed on the registry has a
15 disqualifying offense and is therefore ineligible to work or
16 has a waiver pursuant to Section 40 of this Act.

17 (j) The student, applicant, or employee must be notified of
18 each the following whenever a fingerprint-based criminal
19 history records check is required:

20 (1) That the educational entity, health care employer,
21 or long-term care facility shall initiate a
22 fingerprint-based criminal history record check requested
23 by the Department of Public Health of the student,
24 applicant, or employee pursuant to this Act.

25 (2) That the student, applicant, or employee has a
26 right to obtain a copy of the criminal records report that

1 indicates a conviction for a disqualifying offense and
2 challenge the accuracy and completeness of the report
3 through an established Department of State Police
4 procedure of Access and Review.

5 (3) That the applicant, if hired conditionally, may be
6 terminated if the criminal records report indicates that
7 the applicant has a record of a conviction of any of the
8 criminal offenses enumerated in Section 25, unless the
9 applicant obtains a waiver pursuant to Section 40 of this
10 Act.

11 (4) That the applicant, if not hired conditionally,
12 shall not be hired if the criminal records report indicates
13 that the applicant has a record of a conviction of any of
14 the criminal offenses enumerated in Section 25, unless the
15 applicant obtains a waiver pursuant to Section 40 of this
16 Act.

17 (5) That the employee shall be terminated if the
18 criminal records report indicates that the employee has a
19 record of a conviction of any of the criminal offenses
20 enumerated in Section 25.

21 (6) If, after the employee has originally been
22 determined not to have disqualifying offenses, the
23 employer is notified that the employee has a new
24 conviction(s) of any of the criminal offenses enumerated in
25 Section 25, then the employee shall be terminated.

26 (k) A health care employer or long-term care facility may

1 conditionally employ an applicant for up to 3 months pending
2 the results of a fingerprint-based criminal history record
3 check requested by the Department of Public Health.

4 (1) The Department of Public Health or an entity
5 responsible for inspecting, licensing, certifying, or
6 registering the health care employer or long-term care facility
7 shall be immune from liability for notices given based on the
8 results of a fingerprint-based criminal history record check.

9 (225 ILCS 46/40)

10 Sec. 40. Waiver.

11 (a) Any student, applicant, or employee listed on the
12 Health Care Worker Registry ~~An applicant, employee, or nurse~~
13 ~~aide~~ may request a waiver of the prohibition against employment
14 by ~~submitting the following information to the entity~~
15 ~~responsible for inspecting, licensing, certifying, or~~
16 ~~registering the health care employer within 5 working days~~
17 ~~after the receipt of the criminal records report:~~

18 (1) completing a waiver application on a form
19 prescribed by the Department of Public Health; Information
20 necessary to initiate a fingerprint-based UCIA criminal
21 records check in a form and manner prescribed by the
22 Department of State Police; and

23 (2) providing a written explanation of each conviction
24 to include (i) what happened, (ii) how many years have
25 passed since the offense, (iii) the individuals involved,

1 (iv) the age of the applicant at the time of the offense,
2 and (v) any other circumstances surrounding the offense;
3 and

4 (3) providing official documentation showing that all
5 finances have been paid, if applicable, and the date probation
6 or parole was satisfactorily completed, if applicable. The
7 ~~fee for a fingerprint based UCIA criminal records check,~~
8 ~~which shall not exceed the actual cost of the record check.~~

9 ~~(a-5) The entity responsible for inspecting, licensing,~~
10 ~~certifying, or registering the health care employer may accept~~
11 ~~the results of the fingerprint based UCIA criminal records~~
12 ~~check instead of the items required by paragraphs (1) and (2)~~
13 ~~of subsection (a).~~

14 (b) The applicant may, but is not required to, submit
15 employment and character references and any other evidence
16 demonstrating the ability of the applicant or employee to
17 perform the employment responsibilities competently and
18 evidence that the applicant or employee does not pose a threat
19 to the health or safety of residents, patients, or clients. The
20 ~~entity responsible for inspecting, licensing, certifying, or~~
21 ~~registering the health care employer may grant a waiver based~~
22 ~~upon any mitigating circumstances, which may include, but need~~
23 ~~not be limited to:~~

24 ~~(1) The age of the individual at which the crime was~~
25 ~~committed;~~

26 ~~(2) The circumstances surrounding the crime;~~

1 ~~(3) The length of time since the conviction;~~

2 ~~(4) The applicant or employee's criminal history since~~
3 ~~the conviction;~~

4 ~~(5) The applicant or employee's work history;~~

5 ~~(6) The applicant or employee's current employment~~
6 ~~references;~~

7 ~~(7) The applicant or employee's character references;~~

8 ~~(8) Nurse aide registry records; and~~

9 ~~(9) Other evidence demonstrating the ability of the~~
10 ~~applicant or employee to perform the employment~~
11 ~~responsibilities competently and evidence that the~~
12 ~~applicant or employee does not pose a threat to the health~~
13 ~~or safety of residents, patients, or clients.~~

14 (c) The Department of Public Health ~~entity responsible for~~
15 ~~inspecting, licensing, certifying, or registering a health~~
16 ~~care employer must inform the health care employer~~ must inform
17 health care employers if a waiver is being sought by entering a
18 record on the Health Care Worker Registry that a waiver is
19 pending and must act upon the waiver request within 30 days of
20 receipt of all necessary information, as defined by rule.

21 (d) An individual shall not be employed from the time that
22 the employer receives a notification from the Department of
23 Public Health based upon the results of a fingerprint-based
24 criminal history records ~~non-fingerprint~~ check containing
25 disqualifying conditions until the time that the individual
26 receives a waiver ~~from the Department. If the individual~~

1 ~~challenges the results of the non fingerprint check, the~~
2 ~~employer may continue to employ the individual if the~~
3 ~~individual presents convincing evidence to the employer that~~
4 ~~the non fingerprint check is invalid. If the individual~~
5 ~~challenges the results of the non fingerprint check, his or her~~
6 ~~identity shall be validated by a fingerprint based records~~
7 ~~check in accordance with Section 35.~~

8 (e) The entity responsible for inspecting, licensing,
9 certifying, or registering the health care employer and the
10 Department of Public Health shall be immune from liability for
11 any waivers granted under this Section.

12 (f) A health care employer is not obligated to employ or
13 offer permanent employment to an applicant, or to retain an
14 employee who is granted a waiver under this Section.

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

16 (225 ILCS 46/45)

17 Sec. 45. Application fees. Except as otherwise provided in
18 this Act, the student, applicant, or employee, other than a
19 nurse aide, may be required to pay all related application and
20 fingerprinting fees including, but not limited to, the amounts
21 established ~~by the UCIA to conduct UCIA criminal history record~~
22 ~~checks and the amounts established~~ by the Department of State
23 Police to process fingerprint-based ~~UCIA~~ criminal history
24 records checks and the livescan vendor fees. If a health care
25 employer certified to participate in the Medicaid program pays

1 the fees, the fees shall be a direct pass-through on the cost
2 report submitted by the employer to the Medicaid agency.

3 (Source: P.A. 89-197, eff. 7-21-95.)

4 (225 ILCS 46/50)

5 Sec. 50. Health care employer files. The health care
6 employer shall retain on file for a period of 5 years records
7 of criminal records requests for all employees. The health care
8 employer shall retain a copy of the disclosure and
9 authorization forms, a copy of the livescan request form, all
10 notifications resulting from the ~~results of the UCIA~~
11 fingerprint-based criminal history records check and waiver,
12 if appropriate, for the duration of the individual's
13 employment. The files shall be subject to inspection by the
14 agency responsible for inspecting, licensing, or certifying
15 the health care employer. A fine of up to \$500 may be imposed
16 by the appropriate agency for failure to maintain these
17 records. The Department of Public Health must keep an
18 electronic record of criminal history background checks for an
19 individual for as long as the individual remains active on the
20 Health Care Worker Registry.

21 (Source: P.A. 89-197, eff. 7-21-95; 89-674, eff. 8-14-96.)

22 (225 ILCS 46/55)

23 Sec. 55. Immunity from liability. A health care employer
24 shall not be liable for the failure to hire or to retain an

1 applicant or employee who has been convicted of committing or
2 attempting to commit one or more of the offenses enumerated in
3 subsection (a) of Section 25 of this Act. However, if an
4 employee ~~a health care worker~~ is suspended from employment
5 based on the results of a criminal background check conducted
6 under this Act and the results prompting the suspension are
7 subsequently found to be inaccurate, the employee ~~health care~~
8 ~~worker~~ is entitled to recover backpay from his or her health
9 care employer for the suspension period provided that the
10 employer is the cause of the inaccuracy. The Department of
11 Public Health is not liable for any hiring decisions,
12 suspensions, or terminations.

13 No health care employer shall be chargeable for any benefit
14 charges that result from the payment of unemployment benefits
15 to any claimant when the claimant's separation from that
16 employer occurred because the claimant's criminal background
17 included an offense enumerated in subsection (a) of Section 25,
18 or the claimant's separation from that health care employer
19 occurred as a result of the claimant violating a policy that
20 the employer was required to maintain pursuant to the Drug Free
21 Workplace Act.

22 (Source: P.A. 90-441, eff. 1-1-98; 91-598, eff. 1-1-00.)

23 (225 ILCS 46/60)

24 Sec. 60. Offense.

25 (a) Any person whose profession is job counseling who

1 knowingly counsels any person who has been convicted of
2 committing or attempting to commit any of the offenses
3 enumerated in subsection (a) of Section 25 to apply for a
4 position with duties involving direct contact with a client,
5 patient, or resident of a health care employer or a position
6 with duties that involve or may involve contact with residents
7 or access to the living quarters or the financial, medical, or
8 personal records of residents of a long-term care facility
9 shall be guilty of a Class A misdemeanor unless a waiver is
10 granted pursuant to Section 40 of this Act.

11 (b) Subsection (a) does not apply to an individual
12 performing official duties in connection with the
13 administration of the State employment service described in
14 Section 1705 of the Unemployment Insurance Act.

15 (Source: P.A. 91-598, eff. 1-1-00.)

16 (225 ILCS 46/25.1 rep.)

17 (225 ILCS 46/30 rep.)

18 (225 ILCS 46/35 rep.)

19 Section 10. The Health Care Worker Background Check Act is
20 amended by repealing Sections 25.1, 30, and 35.

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