



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3263

Introduced 2/24/2011, by Rep. Patricia R. Bellock

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Provides that when the Secretary receives notification from an Illinois State's Attorney of the filing of criminal charges alleging that a health care worker, as defined in the Health Care Worker Self-Referral Act, committed any offense that (1) involves bodily harm against a patient, including any offense based on sexual conduct or sexual penetration or (2) requires as a part of its criminal sentence to register under the Sex Offender Registration Act, the Secretary shall suspend the license of the health care worker without a hearing for 45 days, simultaneously with the institution of proceedings for a hearing. Adds provisions concerning disciplinary hearings and confidentiality. Provides that the Department shall immediately permanently revoke the license or permit of any health care worker who has been convicted of such a crime and that the Department shall not reinstate or issue a license or permit as a health care worker to any such convicted person unless that person's conviction has been vacated, overturned, or reversed. Provides that these new provisions apply notwithstanding any other provision of law to the contrary. Amends the Counties Code. Adds to the duties of State's Attorney the duty to: (1) notify the Department of the filing of criminal charges alleging that a health care worker committed any offense that (i) involves bodily harm against a patient, including any offense based on sexual conduct or sexual penetration or (ii) requires as a part of its criminal sentence to register under the Sex Offender Registration Act and (2) notify the Department upon the conviction of any health care worker of such a crime. Effective immediately.

LRB097 10843 CEL 51337 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Department of Professional Regulation Law of  
5 the Civil Administrative Code of Illinois is amended by adding  
6 Sections 2105-165 and 2105-166 as follows:

7 (20 ILCS 2105/2105-165 new)

8 Sec. 2105-165. Health care worker licensure actions;  
9 intentional felonies and sex crimes.

10 (a) Whenever the Department is informed of any allegations  
11 that a health care worker has, during the course of patient  
12 care or treatment, committed any act involving bodily harm,  
13 sexual conduct, or sexual penetration against a patient, the  
14 Department shall within 24 hours notify the appropriate local,  
15 State, or federal law enforcement agency.

16 (b) When the Secretary receives notification from an  
17 Illinois State's Attorney of the filing of criminal charges  
18 alleging that a health care worker, as defined in the Health  
19 Care Worker Self-Referral Act, committed any offense that (1)  
20 involves bodily harm against a patient, including any offense  
21 based on sexual conduct or sexual penetration, or (2) requires  
22 as a part of its criminal sentence to register under the Sex  
23 Offender Registration Act, the Secretary shall immediately

1 temporarily suspend the license of the health care worker  
2 without a hearing for 45 days, simultaneously with the  
3 institution of proceedings for a hearing in accordance with  
4 subsection (d) of this Section.

5 (c) If an Illinois State's Attorney files criminal felony  
6 charges alleging that a licensed health care worker, as defined  
7 in the Health Care Worker Self-Referral Act, committed any  
8 offense that (1) involves bodily harm against a patient,  
9 including any offense based on sexual conduct or sexual  
10 penetration, or (2) requires as a part of its criminal sentence  
11 to register under the Sex Offender Registration Act, then the  
12 State's Attorney shall provide notice to the Department of the  
13 health care worker's name, address, practice address, and  
14 license number and the patient's name.

15 (d) If the Secretary suspends a license under subsection  
16 (a) of this Section, then a hearing on the health care worker's  
17 license must be convened by the appropriate licensing or  
18 disciplinary board within 45 days after the summary suspension  
19 and completed without appreciable delay. This hearing is to  
20 determine whether to recommend to the Secretary that the health  
21 care worker's license be kept on suspended status or be  
22 reinstated through the duration of the criminal proceedings  
23 against the health care worker. In the hearing, any written  
24 information or communication and any other evidence submitted  
25 therewith may be introduced as evidence against the health care  
26 worker; provided however, the health care worker, or his or her

1 counsel, shall have the opportunity to impeach such evidence  
2 and to submit exculpatory evidence.

3 If the appropriate licensing or disciplinary board  
4 reinstates the license while criminal proceedings against the  
5 licensee are still on-going, then the Secretary shall  
6 immediately issue an administrative order that the licensee  
7 shall practice only with a chaperone, approved by the  
8 Secretary, during all patient encounters until the conclusion  
9 of the criminal proceedings against the licensee. The  
10 Secretary's order shall require the licensee to provide an  
11 acceptable written plan of compliance with the administrative  
12 order within 10 days after receiving the order. Failure to  
13 comply with the administrative order, to file a compliance  
14 plan, or to follow the compliance plan shall subject the  
15 licensee to an immediate suspension of his or her license until  
16 the conclusion of the criminal proceedings.

17 (e) Nothing contained in this Section shall act in any way  
18 to waive or modify the confidentiality of information provided  
19 by the State's Attorney to the extent provided by law. Any  
20 information reported or disclosed shall be kept for the  
21 confidential use of the Secretary, Department attorneys, the  
22 investigative staff, and authorized clerical staff, except  
23 that the Department may disclose information and documents to  
24 (1) a federal, State, or local law enforcement agency in an  
25 ongoing criminal investigation or (2) an appropriate licensing  
26 authority of another state or jurisdiction pursuant to an

1 official request made by that authority. Any information and  
2 documents disclosed to a federal, State, or local law  
3 enforcement agency may be used by that agency only for the  
4 investigation and prosecution of a criminal offense. Any  
5 information or documents disclosed by the Department to a  
6 professional licensing authority of another state or  
7 jurisdiction may only be used by that authority for  
8 investigations and disciplinary proceedings with regards to a  
9 professional license.

10 (f) Any licensee disciplined or who received an  
11 administrative order under this Section shall have the  
12 discipline or administrative order vacated and completely  
13 removed from the licensee's records and public view and the  
14 discipline or administrative order shall be afforded the same  
15 status as is provided information under Part 21 of Article VIII  
16 of the Code of Civil Procedure if (1) the charges upon which  
17 the discipline or administrative order is based are dropped;  
18 (2) the licensee is not convicted of the charges upon which the  
19 discipline or administrative order is based; or (3) any  
20 conviction for charges upon which the discipline or  
21 administrative order was based have been vacated, overturned,  
22 or reversed.

23 (g) Nothing contained in this Section shall prohibit the  
24 Department from initiating or maintaining a disciplinary  
25 action against a licensee independent from any criminal  
26 charges, conviction, or sex offender registration.

1 (20 ILCS 2105/2105-166 new)

2 Sec. 2105-166. Revocation of license of health care worker  
3 for conviction of violent or sexual crime against patient; ban  
4 from licensure or reinstatement.

5 (a) The Department shall immediately permanently revoke  
6 the license or permit of any health care worker, as defined in  
7 the Health Care Worker Self-Referral Act, who has been  
8 convicted of any offense that (1) involves bodily harm against  
9 a patient, including any offense based on sexual conduct or  
10 sexual penetration, or (2) requires as a part of its criminal  
11 sentence to register under the Sex Offender Registration Act.

12 (b) The Department shall not issue a license or permit as a  
13 health care worker to any person who has been convicted of any  
14 offense that (1) involves bodily harm against a patient,  
15 including any offense based on sexual conduct or sexual  
16 penetration, or (2) requires as a part of its criminal sentence  
17 to register under the Sex Offender Registration Act unless that  
18 person's conviction has been vacated, overturned, or reversed.

19 (c) The provisions of this Section apply notwithstanding  
20 any other provision of law to the contrary.

21 Section 10. The Counties Code is amended by changing  
22 Section 3-9005 as follows:

23 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

1           Sec. 3-9005. Powers and duties of State's attorney.

2           (a) The duty of each State's attorney shall be:

3                 (1) To commence and prosecute all actions, suits,  
4                 indictments and prosecutions, civil and criminal, in the  
5                 circuit court for his county, in which the people of the  
6                 State or county may be concerned.

7                 (2) To prosecute all forfeited bonds and  
8                 recognizances, and all actions and proceedings for the  
9                 recovery of debts, revenues, moneys, fines, penalties and  
10                forfeitures accruing to the State or his county, or to any  
11                school district or road district in his county; also, to  
12                prosecute all suits in his county against railroad or  
13                transportation companies, which may be prosecuted in the  
14                name of the People of the State of Illinois.

15                (3) To commence and prosecute all actions and  
16                proceedings brought by any county officer in his official  
17                capacity.

18                (4) To defend all actions and proceedings brought  
19                against his county, or against any county or State officer,  
20                in his official capacity, within his county.

21                (5) To attend the examination of all persons brought  
22                before any judge on habeas corpus, when the prosecution is  
23                in his county.

24                (6) To attend before judges and prosecute charges of  
25                felony or misdemeanor, for which the offender is required  
26                to be recognized to appear before the circuit court, when

1 in his power so to do.

2 (7) To give his opinion, without fee or reward, to any  
3 county officer in his county, upon any question or law  
4 relating to any criminal or other matter, in which the  
5 people or the county may be concerned.

6 (8) To assist the attorney general whenever it may be  
7 necessary, and in cases of appeal from his county to the  
8 Supreme Court, to which it is the duty of the attorney  
9 general to attend, he shall furnish the attorney general at  
10 least 10 days before such is due to be filed, a manuscript  
11 of a proposed statement, brief and argument to be printed  
12 and filed on behalf of the people, prepared in accordance  
13 with the rules of the Supreme Court. However, if such  
14 brief, argument or other document is due to be filed by law  
15 or order of court within this 10 day period, then the  
16 State's attorney shall furnish such as soon as may be  
17 reasonable.

18 (9) To pay all moneys received by him in trust, without  
19 delay, to the officer who by law is entitled to the custody  
20 thereof.

21 (10) To notify, by first class mail, complaining  
22 witnesses of the ultimate disposition of the cases arising  
23 from an indictment or an information.

24 (11) To perform such other and further duties as may,  
25 from time to time, be enjoined on him by law.

26 (12) To appear in all proceedings by collectors of



1 taxes against delinquent taxpayers for judgments to sell  
2 real estate, and see that all the necessary preliminary  
3 steps have been legally taken to make the judgment legal  
4 and binding.

5 (13) To notify, by first-class mail, the State  
6 Superintendent of Education, the applicable regional  
7 superintendent of schools, and the superintendent of the  
8 employing school district or the chief school  
9 administrator of the employing nonpublic school, if any,  
10 upon the conviction of any individual known to possess a  
11 certificate issued pursuant to Article 21 of the School  
12 Code of any offense set forth in Section 21-23a of the  
13 School Code or any other felony conviction, providing the  
14 name of the certificate holder, the fact of the conviction,  
15 and the name and location of the court where the conviction  
16 occurred. The certificate holder must also be  
17 contemporaneously sent a copy of the notice.

18 (14) To notify, by telephone and overnight mail, the  
19 Department of Financial and Professional Regulation of the  
20 filing of criminal charges alleging that a health care  
21 worker, as defined in the Health Care Worker Self-Referral  
22 Act, committed any offense that (1) involves bodily harm  
23 against a patient, including any offense based on sexual  
24 conduct or sexual penetration, or (2) requires as a part of  
25 its criminal sentence to register under the Sex Offender  
26 Registration Act.

1           (15) To notify, by first-class mail, the Department of  
2           Financial and Professional Regulation upon the conviction  
3           of any health care worker, as defined in the Health Care  
4           Worker Self-Referral Act, for committing any offense that  
5           (1) involves bodily harm against a patient, including any  
6           offense based on sexual conduct or sexual penetration, or  
7           (2) requires as a part of its criminal sentence to register  
8           under the Sex Offender Registration Act, providing the name  
9           of the health care worker, the fact of the conviction, and  
10           the name and location of the court where the conviction  
11           occurred.

12           (b) The State's Attorney of each county shall have  
13 authority to appoint one or more special investigators to serve  
14 subpoenas, make return of process and conduct investigations  
15 which assist the State's Attorney in the performance of his  
16 duties. A special investigator shall not carry firearms except  
17 with permission of the State's Attorney and only while carrying  
18 appropriate identification indicating his employment and in  
19 the performance of his assigned duties.

20           Subject to the qualifications set forth in this subsection,  
21 special investigators shall be peace officers and shall have  
22 all the powers possessed by investigators under the State's  
23 Attorneys Appellate Prosecutor's Act.

24           No special investigator employed by the State's Attorney  
25 shall have peace officer status or exercise police powers  
26 unless he or she successfully completes the basic police

1 training course mandated and approved by the Illinois Law  
2 Enforcement Training Standards Board or such board waives the  
3 training requirement by reason of the special investigator's  
4 prior law enforcement experience or training or both. Any  
5 State's Attorney appointing a special investigator shall  
6 consult with all affected local police agencies, to the extent  
7 consistent with the public interest, if the special  
8 investigator is assigned to areas within that agency's  
9 jurisdiction.

10 Before a person is appointed as a special investigator, his  
11 fingerprints shall be taken and transmitted to the Department  
12 of State Police. The Department shall examine its records and  
13 submit to the State's Attorney of the county in which the  
14 investigator seeks appointment any conviction information  
15 concerning the person on file with the Department. No person  
16 shall be appointed as a special investigator if he has been  
17 convicted of a felony or other offense involving moral  
18 turpitude. A special investigator shall be paid a salary and be  
19 reimbursed for actual expenses incurred in performing his  
20 assigned duties. The county board shall approve the salary and  
21 actual expenses and appropriate the salary and expenses in the  
22 manner prescribed by law or ordinance.

23 (c) The State's Attorney may request and receive from  
24 employers, labor unions, telephone companies, and utility  
25 companies location information concerning putative fathers and  
26 noncustodial parents for the purpose of establishing a child's

1 paternity or establishing, enforcing, or modifying a child  
2 support obligation. In this subsection, "location information"  
3 means information about (i) the physical whereabouts of a  
4 putative father or noncustodial parent, (ii) the putative  
5 father or noncustodial parent's employer, or (iii) the salary,  
6 wages, and other compensation paid and the health insurance  
7 coverage provided to the putative father or noncustodial parent  
8 by the employer of the putative father or noncustodial parent  
9 or by a labor union of which the putative father or  
10 noncustodial parent is a member.

11 (d) For each State fiscal year, the State's Attorney of  
12 Cook County shall appear before the General Assembly and  
13 request appropriations to be made from the Capital Litigation  
14 Trust Fund to the State Treasurer for the purpose of providing  
15 assistance in the prosecution of capital cases in Cook County  
16 and for the purpose of providing assistance to the State in  
17 post-conviction proceedings in capital cases under Article 122  
18 of the Code of Criminal Procedure of 1963 and in relation to  
19 petitions filed under Section 2-1401 of the Code of Civil  
20 Procedure in relation to capital cases. The State's Attorney  
21 may appear before the General Assembly at other times during  
22 the State's fiscal year to request supplemental appropriations  
23 from the Trust Fund to the State Treasurer.

24 (e) The State's Attorney shall have the authority to enter  
25 into a written agreement with the Department of Revenue for  
26 pursuit of civil liability under Section 17-1a of the Criminal

1 Code of 1961 against persons who have issued to the Department  
2 checks or other orders in violation of the provisions of  
3 paragraph (d) of subsection (B) of Section 17-1 of the Criminal  
4 Code of 1961, with the Department to retain the amount owing  
5 upon the dishonored check or order along with the dishonored  
6 check fee imposed under the Uniform Penalty and Interest Act,  
7 with the balance of damages, fees, and costs collected under  
8 Section 17-1a of the Criminal Code of 1961 to be retained by  
9 the State's Attorney. The agreement shall not affect the  
10 allocation of fines and costs imposed in any criminal  
11 prosecution.

12 (Source: P.A. 96-431, eff. 8-13-09.)

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

1	INDEX
2	Statutes amended in order of appearance
3	20 ILCS 2105/2105-165 new
4	20 ILCS 2105/2105-166 new
5	55 ILCS 5/3-9005 from Ch. 34, par. 3-9005