



Sen. John M. Sullivan

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LRB099 09358 RPS 35594 a

1 AMENDMENT TO HOUSE BILL 3841

2 AMENDMENT NO. _____. Amend House Bill 3841 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by
5 changing Section 2-201.5 as follows:

6 (210 ILCS 45/2-201.5)

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

8 (a) All persons age 18 or older seeking admission to a
9 nursing facility must be screened to determine the need for
10 nursing facility services prior to being admitted, regardless
11 of income, assets, or funding source. Screening for nursing
12 facility services shall be administered through procedures
13 established by administrative rule. Screening may be done by
14 agencies other than the Department as established by
15 administrative rule. This Section applies on and after July 1,
16 1996. No later than October 1, 2010, the Department of

1 Healthcare and Family Services, in collaboration with the
2 Department on Aging, the Department of Human Services, and the
3 Department of Public Health, shall file administrative rules
4 providing for the gathering, during the screening process, of
5 information relevant to determining each person's potential
6 for placing other residents, employees, and visitors at risk of
7 harm.

8 (a-1) Any screening performed pursuant to subsection (a) of
9 this Section shall include a determination of whether any
10 person is being considered for admission to a nursing facility
11 due to a need for mental health services. For a person who
12 needs mental health services, the screening shall also include
13 an evaluation of whether there is permanent supportive housing,
14 or an array of community mental health services, including but
15 not limited to supported housing, assertive community
16 treatment, and peer support services, that would enable the
17 person to live in the community. The person shall be told about
18 the existence of any such services that would enable the person
19 to live safely and humanely and about available appropriate
20 nursing home services that would enable the person to live
21 safely and humanely, and the person shall be given the
22 assistance necessary to avail himself or herself of any
23 available services.

24 (a-2) Pre-screening for persons with a serious mental
25 illness shall be performed by a psychiatrist, a psychologist, a
26 registered nurse certified in psychiatric nursing, a licensed

1 clinical professional counselor, or a licensed clinical social
2 worker, who is competent to (i) perform a clinical assessment
3 of the individual, (ii) certify a diagnosis, (iii) make a
4 determination about the individual's current need for
5 treatment, including substance abuse treatment, and recommend
6 specific treatment, and (iv) determine whether a facility or a
7 community-based program is able to meet the needs of the
8 individual.

9 For any person entering a nursing facility, the
10 pre-screening agent shall make specific recommendations about
11 what care and services the individual needs to receive,
12 beginning at admission, to attain or maintain the individual's
13 highest level of independent functioning and to live in the
14 most integrated setting appropriate for his or her physical and
15 personal care and developmental and mental health needs. These
16 recommendations shall be revised as appropriate by the
17 pre-screening or re-screening agent based on the results of
18 resident review and in response to changes in the resident's
19 wishes, needs, and interest in transition.

20 Upon the person entering the nursing facility, the
21 Department of Human Services or its designee shall assist the
22 person in establishing a relationship with a community mental
23 health agency or other appropriate agencies in order to (i)
24 promote the person's transition to independent living and (ii)
25 support the person's progress in meeting individual goals.

26 (a-3) The Department of Human Services, by rule, shall

1 provide for a prohibition on conflicts of interest for
2 pre-admission screeners. The rule shall provide for waiver of
3 those conflicts by the Department of Human Services if the
4 Department of Human Services determines that a scarcity of
5 qualified pre-admission screeners exists in a given community
6 and that, absent a waiver of conflicts, an insufficient number
7 of pre-admission screeners would be available. If a conflict is
8 waived, the pre-admission screener shall disclose the conflict
9 of interest to the screened individual in the manner provided
10 for by rule of the Department of Human Services. For the
11 purposes of this subsection, a "conflict of interest" includes,
12 but is not limited to, the existence of a professional or
13 financial relationship between (i) a PAS-MH corporate or a
14 PAS-MH agent and (ii) a community provider or long-term care
15 facility.

16 (b) In addition to the screening required by subsection
17 (a), a facility, except for those licensed as long term care
18 for under age 22 facilities, shall, within 24 hours after
19 admission, request a criminal history background check
20 pursuant to the Uniform Conviction Information Act for all
21 persons age 18 or older seeking admission to the facility,
22 unless (i) a background check was initiated by a hospital
23 pursuant to subsection (d) of Section 6.09 of the Hospital
24 Licensing Act; (ii) the transferring resident is immobile; or
25 (iii) the transferring resident is moving into hospice. The
26 exemption provided in item (ii) or (iii) of this subsection (b)

1 shall apply only if a background check was completed by the
2 facility the resident resided at prior to seeking admission to
3 the facility and the resident was transferred to the facility
4 with no time passing during which the resident was not
5 institutionalized. If item (ii) or (iii) of this subsection (b)
6 applies, the prior facility shall provide a copy of its
7 background check of the resident and all supporting
8 documentation, including, when applicable, the criminal
9 history report and the security assessment, to the facility to
10 which the resident is being transferred. Background checks
11 conducted pursuant to this Section shall be based on the
12 resident's name, date of birth, and other identifiers as
13 required by the Department of State Police. If the results of
14 the background check are inconclusive, the facility shall
15 initiate a fingerprint-based check, unless the fingerprint
16 check is waived by the Director of Public Health based on
17 verification by the facility that the resident is completely
18 immobile or that the resident meets other criteria related to
19 the resident's health or lack of potential risk which may be
20 established by Departmental rule. A waiver issued pursuant to
21 this Section shall be valid only while the resident is immobile
22 or while the criteria supporting the waiver exist. The facility
23 shall provide for or arrange for any required fingerprint-based
24 checks to be taken on the premises of the facility. If a
25 fingerprint-based check is required, the facility shall
26 arrange for it to be conducted in a manner that is respectful

1 of the resident's dignity and that minimizes any emotional or
2 physical hardship to the resident.

3 (c) If the results of a resident's criminal history
4 background check reveal that the resident is an identified
5 offender as defined in Section 1-114.01, the facility shall do
6 the following:

7 (1) Immediately notify the Department of State Police,
8 in the form and manner required by the Department of State
9 Police, in collaboration with the Department of Public
10 Health, that the resident is an identified offender.

11 (2) Within 72 hours, arrange for a fingerprint-based
12 criminal history record inquiry to be requested on the
13 identified offender resident. The inquiry shall be based on
14 the subject's name, sex, race, date of birth, fingerprint
15 images, and other identifiers required by the Department of
16 State Police. The inquiry shall be processed through the
17 files of the Department of State Police and the Federal
18 Bureau of Investigation to locate any criminal history
19 record information that may exist regarding the subject.
20 The Federal Bureau of Investigation shall furnish to the
21 Department of State Police, pursuant to an inquiry under
22 this paragraph (2), any criminal history record
23 information contained in its files.

24 The facility shall comply with all applicable provisions
25 contained in the Uniform Conviction Information Act.

26 All name-based and fingerprint-based criminal history

1 record inquiries shall be submitted to the Department of State
2 Police electronically in the form and manner prescribed by the
3 Department of State Police. The Department of State Police may
4 charge the facility a fee for processing name-based and
5 fingerprint-based criminal history record inquiries. The fee
6 shall be deposited into the State Police Services Fund. The fee
7 shall not exceed the actual cost of processing the inquiry.

8 (d) (Blank).

9 (e) The Department shall develop and maintain a
10 de-identified database of residents who have injured facility
11 staff, facility visitors, or other residents, and the attendant
12 circumstances, solely for the purposes of evaluating and
13 improving resident pre-screening and assessment procedures
14 (including the Criminal History Report prepared under Section
15 2-201.6) and the adequacy of Department requirements
16 concerning the provision of care and services to residents. A
17 resident shall not be listed in the database until a Department
18 survey confirms the accuracy of the listing. The names of
19 persons listed in the database and information that would allow
20 them to be individually identified shall not be made public.
21 Neither the Department nor any other agency of State government
22 may use information in the database to take any action against
23 any individual, licensee, or other entity, unless the
24 Department or agency receives the information independent of
25 this subsection (e). All information collected, maintained, or
26 developed under the authority of this subsection (e) for the

1 purposes of the database maintained under this subsection (e)
2 shall be treated in the same manner as information that is
3 subject to Part 21 of Article VIII of the Code of Civil
4 Procedure.

5 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

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