

AN ACT concerning regulation.

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

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

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

Sec. 2. Open meetings.

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

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

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

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

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

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

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

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

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

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

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

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

(9) Student disciplinary cases.

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

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

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

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

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

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

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

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

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

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

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

(20) The classification and discussion of matters

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

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

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

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

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

(d) Definitions. For purposes of this Section:

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

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

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

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

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

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

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

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

Sec. 7. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) obstruct an ongoing criminal investigation.

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

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

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

(iii) court records that are public;

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

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

contract or agreement shall be subject to inspection and copying.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(mm) Maps and other records regarding the location or

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

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

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

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

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

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

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

Section 15. The Abuse Prevention Review Team Act is amended

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

(210 ILCS 28/5)

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

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

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

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

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

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

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

the State is to prevent future assaults and unnecessary deaths.

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

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

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

(210 ILCS 28/15)

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

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

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

the expiration of their terms.

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

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

(2) Representative of the Department.

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

(4) Representative of a local law enforcement agency.

(5) Representative of the Illinois Attorney General.

(6) Psychologist or psychiatrist.

(7) Representative of a local health department.

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

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

(10) Coroner or forensic pathologist.

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

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

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

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

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

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

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

(210 ILCS 28/20)

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

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

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

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

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

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

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

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

purposes of this Act.

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

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

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

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

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

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

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

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

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

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

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

(210 ILCS 28/25)

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

Sec. 25. Review team access to information.

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

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

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

(210 ILCS 28/40)

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

Sec. 40. Executive Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(210 ILCS 28/45 new)

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

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

(210 ILCS 28/50 new)

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

(210 ILCS 28/85 rep.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(225 ILCS 46/70)

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

(a) In this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Department of Public Health may further define

"individuals who have direct access" by rule.

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

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

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

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

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

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

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

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

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

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

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

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