

1 AN ACT concerning regulation.

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

4 Section 5. The Health Care Worker Background Check Act is
5 amended by changing Sections 25 and 33 as follows:

6 (225 ILCS 46/25)

7 Sec. 25. Hiring of people with criminal records by health
8 care employers and long-term care facilities.

9 (a) A health care employer or long-term care facility may
10 hire, employ, or retain any individual in a position involving
11 direct care for clients, patients, or residents, or access to
12 the living quarters or the financial, medical, or personal
13 records of clients, patients, or residents who has been
14 convicted of committing or attempting to commit one or more of
15 the following offenses under the laws of this State, or of an
16 offense that is substantially equivalent to the following
17 offenses under the laws of any other state or of the laws of
18 the United States, as verified by court records, records from
19 a state agency, or a Federal Bureau of Investigation criminal
20 history records check, only with a waiver described in Section
21 40: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,
22 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1,
23 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30,

1 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.2, 11-9.3,
2 11-9.4-1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,
3 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
4 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
5 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-20.5, 12-21, 12-21.5,
6 12-21.6, 12-32, 12-33, 12C-5, 12C-10, 16-1, 16-1.3, 16-25,
7 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3,
8 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, 24-1.8,
9 24-3.8, or 33A-2, or subdivision (a) (4) of Section 11-14.4, or
10 in subsection (a) of Section 12-3 or subsection (a) or (b) of
11 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
12 Code of 2012; those provided in Section 4 of the Wrongs to
13 Children Act; those provided in Section 53 of the Criminal
14 Jurisprudence Act; those defined in subsection (c), (d), (e),
15 (f), or (g) of Section 5 or Section 5.1, 5.2, 7, or 9 of the
16 Cannabis Control Act; those defined in the Methamphetamine
17 Control and Community Protection Act; those defined in
18 Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the
19 Illinois Controlled Substances Act; or subsection (a) of
20 Section 3.01, Section 3.02, or Section 3.03 of the Humane Care
21 for Animals Act.

22 (a-1) A health care employer or long-term care facility
23 may hire, employ, or retain any individual in a position
24 involving direct care for clients, patients, or residents, or
25 access to the living quarters or the financial, medical, or
26 personal records of clients, patients, or residents who has

1 been convicted of committing or attempting to commit one or
2 more of the following offenses under the laws of this State, or
3 of an offense that is substantially equivalent to the
4 following offenses under the laws of any other state or of the
5 laws of the United States, as verified by court records,
6 records from a state agency, or a Federal Bureau of
7 Investigation criminal history records check, only with a
8 waiver described in Section 40: those offenses defined in
9 Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,
10 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,
11 24-3.2, or 24-3.3, or subsection (b) of Section 17-32,
12 subsection (b) of Section 18-1, or subsection (b) of Section
13 20-1, of the Criminal Code of 1961 or the Criminal Code of
14 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card
15 and Debit Card Act; or Section 11-9.1A of the Criminal Code of
16 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs
17 to Children Act; or (ii) violated Section 50-50 of the Nurse
18 Practice Act.

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
22 facility is required to retain an individual in a position
23 with duties that involve or may involve contact with residents
24 or access to the living quarters or the financial, medical, or
25 personal records of residents, who has been convicted of
26 committing or attempting to commit one or more of the offenses

1 enumerated in this subsection.

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

21 (c) A health care employer shall not hire, employ, or
22 retain, whether paid or on a volunteer basis, any individual
23 in a position with duties involving direct care of clients,
24 patients, or residents, who has a finding by the Department of
25 abuse, neglect, misappropriation of property, or theft denoted
26 on the Health Care Worker Registry.

1 (d) A health care employer shall not hire, employ, or
2 retain, whether paid or on a volunteer basis, any individual
3 in a position with duties involving direct care of clients,
4 patients, or residents if the individual has a verified and
5 substantiated finding of abuse, neglect, or financial
6 exploitation, as identified within the Adult Protective
7 Service Registry established under Section 7.5 of the Adult
8 Protective Services Act.

9 (e) A health care employer shall not hire, employ, or
10 retain, whether paid or on a volunteer basis, any individual
11 in a position with duties involving direct care of clients,
12 patients, or residents who has a finding by the Department of
13 Human Services of physical or sexual abuse, financial
14 exploitation, or egregious neglect of an individual denoted on
15 the Health Care Worker Registry.

16 (Source: P.A. 99-872, eff. 1-1-17; 100-432, eff. 8-25-17.)

17 (225 ILCS 46/33)

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

19 (a) A fingerprint-based criminal history records check is
20 not required for health care employees who have been
21 continuously employed by a health care employer since October
22 1, 2007, have met the requirements for criminal history
23 background checks prior to October 1, 2007, and have no
24 disqualifying convictions or requested and received a waiver
25 of those disqualifying convictions. These employees shall be

1 retained on the Health Care Worker Registry as long as they
2 remain active. Nothing in this subsection (a) shall be
3 construed to prohibit a health care employer from initiating a
4 criminal history records check for these employees. Should
5 these employees seek a new position with a different health
6 care employer, then a fingerprint-based criminal history
7 records check shall be required.

8 (b) On October 1, 2007 or as soon thereafter as is
9 reasonably practical, in the discretion of the Director of
10 Public Health, and thereafter, any student, applicant, or
11 employee who desires to be included on the Department of
12 Public Health's Health Care Worker Registry shall authorize
13 the Department of Public Health or its designee to request a
14 fingerprint-based criminal history records check to determine
15 if the individual has a conviction for a disqualifying
16 offense. This authorization shall allow the Department of
17 Public Health to request and receive information and
18 assistance from any State or governmental agency. Each
19 individual shall submit his or her fingerprints to the
20 Illinois State Police in an electronic format that complies
21 with the form and manner for requesting and furnishing
22 criminal history record information prescribed by the Illinois
23 State Police. Such fingerprints shall be transmitted through a
24 livescan fingerprint vendor licensed by the Department of
25 Financial and Professional Regulation. The fingerprints
26 submitted under this Section shall be checked against the

1 Illinois State Police and Federal Bureau of Investigation
2 criminal history record databases, now and hereafter filed,
3 including, but not limited to, civil, criminal, and latent
4 fingerprint databases. ~~the fingerprint records now and~~
5 ~~hereafter filed in the Illinois State Police criminal history~~
6 ~~record databases.~~ The Illinois State Police shall charge a fee
7 for conducting the criminal history records check, which shall
8 be deposited into the State Police Services Fund and shall not
9 exceed the actual cost of the records check. The Illinois
10 State Police shall furnish, pursuant to positive
11 identification, records of Illinois convictions and shall
12 forward the national criminal history record information to
13 the department or agency. The Illinois State Police shall
14 forward the applicant's fingerprints to the Federal Bureau of
15 Investigation. The Illinois State Police shall request that
16 the Federal Bureau of Investigation conduct a national
17 criminal history pertaining to the applicant ~~The livescan~~
18 ~~vendor may act as the designee for individuals, educational~~
19 ~~entities, or health care employers in the collection of~~
20 ~~Illinois State Police fees and deposit those fees into the~~
21 ~~State Police Services Fund.~~ The Illinois State Police shall
22 provide information concerning any criminal convictions, now
23 or hereafter filed, against the individual.

24 (c) On October 1, 2007 or as soon thereafter as is
25 reasonably practical, in the discretion of the Director of
26 Public Health, and thereafter, an educational entity, other

1 than a secondary school, conducting a nurse aide training
2 program shall initiate a fingerprint-based criminal history
3 records check required by this Act prior to entry of an
4 individual into the training program.

5 (d) On October 1, 2007 or as soon thereafter as is
6 reasonably practical, in the discretion of the Director of
7 Public Health, and thereafter, a health care employer who
8 makes a conditional offer of employment to an applicant for a
9 position as an employee shall initiate a fingerprint-based
10 criminal history record check, requested by the Department of
11 Public Health, on the applicant, if such a background check
12 has not been previously conducted. Workforce intermediaries
13 and organizations providing pro bono legal services may
14 initiate a fingerprint-based criminal history record check if
15 a conditional offer of employment has not been made and a
16 background check has not been previously conducted for an
17 individual who has a disqualifying conviction and is receiving
18 services from a workforce intermediary or an organization
19 providing pro bono legal services.

20 (e) When initiating a background check requested by the
21 Department of Public Health, an educational entity, health
22 care employer, workforce intermediary, or organization that
23 provides pro bono legal services shall electronically submit
24 to the Department of Public Health the student's, applicant's,
25 or employee's social security number, demographics,
26 disclosure, and authorization information in a format

1 prescribed by the Department of Public Health within 2 working
2 days after the authorization is secured. The student,
3 applicant, or employee shall have his or her fingerprints
4 collected electronically and transmitted to the Illinois State
5 Police within 10 working days. The educational entity, health
6 care employer, workforce intermediary, or organization that
7 provides pro bono legal services shall transmit all necessary
8 information and fees to the livescan vendor and Illinois State
9 Police within 10 working days after receipt of the
10 authorization. This information and the results of the
11 criminal history record checks shall be maintained by the
12 Department of Public Health's Health Care Worker Registry.

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

20 (g) As long as the employee or trainee has had a
21 fingerprint-based criminal history record check required by
22 this Act and stays active on the Health Care Worker Registry,
23 no further criminal history record checks are required, as the
24 Illinois State Police shall notify the Department of Public
25 Health of any additional convictions associated with the
26 fingerprints previously submitted. Health care employers shall

1 check the Health Care Worker Registry before hiring an
2 employee to determine that the individual has had a
3 fingerprint-based record check required by this Act and has no
4 disqualifying convictions or has been granted a waiver
5 pursuant to Section 40 of this Act. If the individual has not
6 had such a background check or is not active on the Health Care
7 Worker Registry, then the health care employer shall initiate
8 a fingerprint-based record check requested by the Department
9 of Public Health. If an individual is inactive on the Health
10 Care Worker Registry, that individual is prohibited from being
11 hired to work as a certified nursing assistant if, since the
12 individual's most recent completion of a competency test,
13 there has been a period of 24 consecutive months during which
14 the individual has not provided nursing or nursing-related
15 services for pay. If the individual can provide proof of
16 having retained his or her certification by not having a
17 24-consecutive-month break in service for pay, he or she may
18 be hired as a certified nursing assistant and that employment
19 information shall be entered into the Health Care Worker
20 Registry.

21 (h) On October 1, 2007 or as soon thereafter as is
22 reasonably practical, in the discretion of the Director of
23 Public Health, and thereafter, if the Illinois State Police
24 notifies the Department of Public Health that an employee has
25 a new conviction of a disqualifying offense, based upon the
26 fingerprints that were previously submitted, then (i) the

1 Health Care Worker Registry shall notify the employee's last
2 known employer of the offense, (ii) a record of the employee's
3 disqualifying offense shall be entered on the Health Care
4 Worker Registry, and (iii) the individual shall no longer be
5 eligible to work as an employee unless he or she obtains a
6 waiver pursuant to Section 40 of this Act.

7 (i) On October 1, 2007, or as soon thereafter, in the
8 discretion of the Director of Public Health, as is reasonably
9 practical, and thereafter, each direct care employer or its
10 designee shall provide an employment verification for each
11 employee no less than annually. The direct care employer or
12 its designee shall log into the Health Care Worker Registry
13 through a secure login. The health care employer or its
14 designee shall indicate employment and termination dates
15 within 30 days after hiring or terminating an employee, as
16 well as the employment category and type. Failure to comply
17 with this subsection (i) constitutes a licensing violation. A
18 fine of up to \$500 may be imposed for failure to maintain these
19 records. This information shall be used by the Department of
20 Public Health to notify the last known employer of any
21 disqualifying offenses that are reported by the Illinois State
22 Police.

23 (j) In the event that an applicant or employee has a waiver
24 for one or more disqualifying offenses pursuant to Section 40
25 of this Act and he or she is otherwise eligible to work, the
26 Health Care Worker Registry shall indicate that the applicant

1 or employee is eligible to work and that additional
2 information is available on the Health Care Worker Registry.
3 The Health Care Worker Registry may indicate that the
4 applicant or employee has received a waiver.

5 (k) The student, applicant, or employee shall be notified
6 of each of the following whenever a fingerprint-based criminal
7 history records check is required:

8 (1) That the educational entity, health care employer,
9 or long-term care facility shall initiate a
10 fingerprint-based criminal history record check required
11 by this Act of the student, applicant, or employee.

12 (2) That the student, applicant, or employee has a
13 right to obtain a copy of the criminal records report that
14 indicates a conviction for a disqualifying offense and
15 challenge the accuracy and completeness of the report
16 through an established Illinois State Police procedure of
17 Access and Review.

18 (3) That the applicant, if hired conditionally, may be
19 terminated if the criminal records report indicates that
20 the applicant has a record of a conviction of any of the
21 criminal offenses enumerated in Section 25, unless the
22 applicant obtains a waiver pursuant to Section 40 of this
23 Act.

24 (4) That the applicant, if not hired conditionally,
25 shall not be hired if the criminal records report
26 indicates that the applicant has a record of a conviction

1 of any of the criminal offenses enumerated in Section 25,
2 unless the applicant obtains a waiver pursuant to Section
3 40 of this Act.

4 (5) That the employee shall be terminated if the
5 criminal records report indicates that the employee has a
6 record of a conviction of any of the criminal offenses
7 enumerated in Section 25.

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

13 (l) A health care employer or long-term care facility may
14 conditionally employ an applicant for up to 3 months pending
15 the results of a fingerprint-based criminal history record
16 check requested by the Department of Public Health.

17 (m) The Department of Public Health or an entity
18 responsible for inspecting, licensing, certifying, or
19 registering the health care employer or long-term care
20 facility shall be immune from liability for notices given
21 based on the results of a fingerprint-based criminal history
22 record check.

23 (n) As used in this Section:

24 "Workforce intermediaries" means organizations that
25 function to provide job training and employment services.
26 Workforce intermediaries include institutions of higher

1 education, faith-based and community organizations, and
2 workforce investment boards.

3 "Organizations providing pro bono legal services" means
4 legal services performed without compensation or at a
5 significantly reduced cost to the recipient that provide
6 services designed to help individuals overcome statutory
7 barriers that would prevent them from entering positions in
8 the healthcare industry.

9 (Source: P.A. 101-176, eff. 7-31-19; 102-538, eff. 8-20-21.)