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LRB096 18178 KTG 38680 a

1 AMENDMENT TO HOUSE BILL 5218

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5218 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Senior Safety Rapid Response Act.

6 Section 5. Legislative findings. The General Assembly  
7 finds that it is in the best interest of the State and its  
8 frail elderly residents who are dependent upon State regulated  
9 residential and non-residential services to mitigate the  
10 likelihood that an identified offender residing in a senior  
11 facility will harm another resident or employee of the  
12 facility.

13 Section 10. Definitions.

14 "Covered facility" or "facility" means: a facility  
15 required to be licensed or certified under the Nursing Home

1 Care Act; an establishment required to be licensed under the  
2 Assisted Living and Shared Housing Act; or a supportive living  
3 facility as described in Article V of the Illinois Public Aid  
4 Code.

5 "Criminal history" means conviction of a felony listed in  
6 Section 25 of the Health Care Worker Background Check Act,  
7 registration as a sex offender, or a current term of parole,  
8 mandatory supervised release, or probation for a felony offense  
9 occurring in Illinois or in another jurisdiction.

10 "Identified offender" means a person who has been convicted  
11 of any felony offense listed in Section 25 of the Health Care  
12 Worker Background Check Act, is a registered sex offender, or  
13 is serving a term of parole, mandatory supervised release, or  
14 probation for a felony offense.

15 Section 15. Criminal background check.

16 (a) Each individual screened under the prescreening  
17 programs paid for by the Department on Aging or the Department  
18 of Human Services shall have a criminal background check  
19 initiated by the pre-screener consistent with standards set  
20 forth in subsection (d) of this Section. Failure to comply  
21 shall result in sanctions levied by the pre-screener's  
22 regulatory agency.

23 (b) Non-Medicaid qualifying individuals shall be charged  
24 the actual cost of performing the criminal background check.  
25 Medicaid qualifying individuals shall pay \$1 for each criminal

1 background check performed. Payment shall be made directly to  
2 the Department of State Police.

3 (c) Upon acceptance of an individual to a covered facility,  
4 the facility shall determine whether a criminal background  
5 check has been initiated and completed. If a criminal  
6 background check has not been initiated the facility shall make  
7 the request consistent with standards set forth in subsection  
8 (d) of this Section within 24 hours of acceptance. Failure to  
9 comply shall result in sanctions levied by the facility's  
10 regulatory agency.

11 (d) Criminal background checks shall be requested  
12 electronically pursuant to the Illinois Uniform Conviction  
13 Information Act for all persons age 18 or older seeking  
14 acceptance into a covered facility and shall be conducted in a  
15 manner that is respectful of the individual's dignity and that  
16 minimizes any emotional or physical hardship to the individual.  
17 Criminal background checks conducted pursuant to this Section  
18 shall be based on the individual's name, date of birth, and  
19 other identifiers as required by the Department of State  
20 Police. If the results of the criminal background check are  
21 inconclusive, the requesting entity shall initiate a  
22 fingerprint based check. The Department of State Police shall  
23 submit the results of all criminal background checks to the  
24 requesting entity. If the criminal background check reveals  
25 that the individual is an identified offender, then the  
26 Department of State Police shall also submit the results to the

1 Department of Public Health, which shall maintain them in a  
2 manner to permit the covered facility to access the  
3 information.

4 (e) A covered facility, except an intermediate or skilled  
5 care facility licensed under the Nursing Home Care Act, shall  
6 within 60 days of the effective date of this Act request a  
7 criminal background check on existing facility residents  
8 consistent with the standards set forth in subsection (d) of  
9 this Section, with all results submitted to the Department of  
10 Public Health. Each resident identified as an identified  
11 offender shall have a risk analysis and security plan developed  
12 for him or her by the Department of State Police's Medicaid  
13 Fraud Control Unit consistent with Section 30.

14 Section 20. Disclosure of criminal history. Every person  
15 requesting acceptance to a covered facility shall be required  
16 to disclose all criminal history prior to acceptance. Failure  
17 to disclose all criminal history shall constitute a rebuttable  
18 presumption that the individual poses an immediate threat to  
19 the safety of other facility residents or facility employees  
20 and shall result in an immediate termination or discharge from  
21 the facility and the loss of all notice and appeal rights  
22 accorded facility residents by law.

23 Section 25. Conditional acceptance. An individual seeking  
24 acceptance to a covered facility prior to completion of a

1 criminal background check and, if applicable, a risk analysis  
2 or security plan shall be accepted on a conditional basis  
3 pending completion of the criminal background check and, if  
4 applicable, a risk analysis or security plan. During the period  
5 of conditional acceptance, the applicant must be segregated  
6 from other facility residents. In agreeing to a conditional  
7 acceptance, the facility retains the right to deny full  
8 acceptance if the applicant, having indicated that he or she  
9 did not have a felony conviction, is found to have a criminal  
10 record. The facility also has the right to decline full  
11 acceptance if it determines, upon reviewing the security plan,  
12 that it cannot provide sufficient security to ensure the safety  
13 of the other residents and staff. An applicant accepted on a  
14 conditional basis shall have all rights and protections  
15 afforded facility residents except, with regard to an  
16 involuntary termination or discharge from the facility, the  
17 right to notice and appeal.

18 Section 30. Risk analysis and security plan.

19 (a) Every identified offender shall have a risk analysis  
20 performed and, if warranted, a security plan developed by the  
21 Medicaid Fraud Control Unit as soon as practicable, but not  
22 later than 14 days after a criminal background check confirms  
23 the person is an identified offender.

24 (b) The risk analysis shall include a comprehensive  
25 criminal history analysis which shall include, but need not be

1 limited to, all of the following:

2 (1) Consultation with the identified offender's  
3 assigned parole agent or probation officer, if applicable.

4 (2) Consultation with the convicting prosecutor's  
5 office.

6 (3) A review of the statement of facts, police reports,  
7 and victim impact statements, if available.

8 (4) An interview with the identified offender.

9 (5) Information requested from other jurisdictions  
10 with information the Medicaid Fraud Control Unit deems to  
11 be of value to its assessment.

12 (6) Consultation with the facility administrator or  
13 facility medical director, if applicable, or both,  
14 regarding the physical condition of the identified  
15 offender.

16 (7) Consideration of the entire criminal history of the  
17 offender, including the date of the last conviction  
18 relative to the date of acceptance into the covered  
19 facility.

20 (8) If the identified offender is a convicted or  
21 registered sex offender, a review of all sex offender  
22 evaluations conducted on the offender. If there is no sex  
23 offender evaluation available, the Medicaid Fraud Control  
24 Unit shall provide for a sex offender evaluation to be  
25 conducted on the identified offender. If the convicted or  
26 registered sex offender is under the supervision of the

1 Illinois Department of Corrections or a county probation  
2 department, the sex offender evaluation shall be arranged  
3 by and at the expense of the supervising agency. All  
4 evaluations conducted on convicted or registered sex  
5 offenders under this Act shall be conducted by sex offender  
6 evaluators approved by the Attorney General's Sex Offender  
7 Management Board.

8 (c) The Medicaid Fraud Control Unit shall prepare a risk  
9 analysis report based on the analysis conducted pursuant to  
10 subsection (b) of this Section. The report shall include a  
11 summary of the risk analysis and shall detail whether and to  
12 what extent the identified offender's criminal history  
13 necessitates the implementation of security measures within  
14 the covered facility. If the identified offender is a convicted  
15 or registered sex offender or if the Medicaid Fraud Control  
16 Unit's criminal history research reveals that the identified  
17 offender poses a significant risk of harm to others within the  
18 facility, the offender shall be diverted to a segregated  
19 facility designed to serve high risk persons.

20 (d) The risk analysis report shall promptly be provided to  
21 the following:

22 (1) The facility to which the identified offender seeks  
23 admission.

24 (2) The Chief of Police of the municipality in which  
25 the facility is located.

26 (3) The Department on Aging's Long Term Care Ombudsman,

1           if applicable.

2           (e) The covered facility shall incorporate the risk  
3 analysis report into the identified offender's care plan.

4           (f) Except for willful and wanton misconduct, any person  
5 authorized to participate in the development of a risk analysis  
6 report is immune from criminal or civil liability for any acts  
7 or omissions as the result of his or her good faith effort to  
8 comply with this Section.

9           (g) Risk assessments and security plans shall be reviewed  
10 annually by the Medicaid Fraud Control Unit or at the request  
11 of the facility, whichever is sooner.

12           (h) The Medicaid Fraud Control Unit shall conduct annual  
13 site visits to all covered facilities housing identified  
14 offenders and shall be provided access upon request to any  
15 covered facility in order to search for persons with  
16 outstanding warrants or who, out of compliance, are registered  
17 as a sex offender.

18           Section 35. Compliance with security plan. A facility  
19 resident or prospective resident for whom a security plan was  
20 developed shall sign and date the security plan indicating his  
21 or her agreement to live within the guidelines provided as a  
22 condition of residency. Failure to comply with the security  
23 plan shall result in an immediate involuntary termination or  
24 discharge from the facility and the loss of notice and appeals  
25 rights granted facility residents by law.



1           Section 40. Illinois State Police Sex Offender Registry. It  
2 is the responsibility of each resident of a covered facility  
3 who is required by law or court order to register with the  
4 Illinois State Police's Sex Offender Registry to monitor the  
5 accuracy of the information submitted and to submit updates to  
6 the registry as required by law or court order. Failure to  
7 register or to maintain the accuracy of the information shall  
8 constitute a rebuttable presumption that the individual poses  
9 an immediate threat to the safety of other facility residents  
10 and shall result in an immediate involuntary termination or  
11 discharge and the waiver of all notice and appeal rights  
12 accorded facility residents by law.

13           Section 45. Involuntary termination or discharge.

14           (a) When a covered facility must involuntarily terminate or  
15 discharge an identified offender, the covered facility's  
16 regulatory agency shall assist in the transfer of the  
17 identified offender to an appropriate setting.

18           (b) When a resident's overt behavior or threat of overt  
19 behavior places other facility residents or facility employees  
20 at risk of harm and necessitates an identified offender's  
21 immediate removal, the covered facility's regulatory agency  
22 shall assume responsibility for the immediate removal of the  
23 identified offender within 48 hours after notification.

1           Section 50. Notification of residents and others. If an  
2 identified offender is a resident of a covered facility, the  
3 facility shall notify every facility resident or the resident's  
4 guardian or representative in writing that such an offender is  
5 a resident of the facility. The covered facility shall also  
6 provide notice to its employees, visitors, and prospective  
7 facility residents that an identified offender is a resident of  
8 the facility.

9           Section 55. Segregated programming; segregated nursing  
10 home initiative. No later than January 1, 2012, the Department  
11 of Public Health shall designate one or more nursing homes  
12 licensed by the Department of Public Health under the Nursing  
13 Home Care Act, or a distinct segregated area within a licensed  
14 nursing home that provides intermediate or skilled care  
15 services, for identified offenders who have been determined to  
16 need more intense supervision than a standard nursing home can  
17 provide. The Department of Public Health shall form a work  
18 group to develop criteria for admission to a high risk facility  
19 or unit and security standards. Members of the work group shall  
20 include the directors of all agencies having expertise in high  
21 risk individuals, such as the Directors from the Departments of  
22 Corrections and State Police, representatives of associations  
23 representing long term care facilities, and individuals  
24 representing the interests of nursing home residents. The  
25 Department of Public Health shall issue an evaluation of the

1 implementation of this initiative no later than January 1,  
2 2015.

3 Section 60. Civil immunity. Except for willful and wanton  
4 misconduct, a covered facility that follows the terms of a  
5 security plan is immune from sanctions or civil liability for  
6 any acts committed by a facility resident who is an identified  
7 offender.

8 Section 90. The Nursing Home Care Act is amended by adding  
9 Section 3-613 as follows:

10 (210 ILCS 45/3-613 new)

11 Sec. 3-613. Order of protection. An administrator may seek  
12 an order of protection in the name of a resident to protect  
13 that resident from abuse, neglect, or financial exploitation  
14 pursuant to the Illinois Domestic Violence Act of 1986. A  
15 facility shall take appropriate steps to secure the enforcement  
16 of every order of protection entered on behalf of a resident or  
17 staff member of which the facility has reasonable knowledge.  
18 Such steps include, but are not limited to, reporting  
19 violations to an appropriate law enforcement agency. A facility  
20 taking steps to secure the enforcement of a valid order of  
21 protection shall be held harmless from sanctions under this  
22 Act. A facility reporting a violation of an order of protection  
23 shall be held harmless from any sanctions under this Act if the

1 facility shows a good faith effort to secure the enforcement of  
2 the order of protection.

3 (210 ILCS 45/2-201.5 rep.)

4 (210 ILCS 45/2-201.6 rep.)

5 (210 ILCS 45/2-216 rep.)

6 (210 ILCS 45/3-202.4 rep.)

7 Section 95. The Nursing Home Care Act is amended by  
8 repealing Sections 2-201.5, 2-201.6, 2-216, and 3-202.4.

9 Section 100. The Unified Code of Corrections is amended by  
10 changing Section 3-14-1 as follows:

11 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

12 Sec. 3-14-1. Release from the Institution.

13 (a) Upon release of a person on parole, mandatory release,  
14 final discharge or pardon the Department shall return all  
15 property held for him, provide him with suitable clothing and  
16 procure necessary transportation for him to his designated  
17 place of residence and employment. It may provide such person  
18 with a grant of money for travel and expenses which may be paid  
19 in installments. The amount of the money grant shall be  
20 determined by the Department.

21 The Department of Corrections may establish and maintain,  
22 in any institution it administers, revolving funds to be known  
23 as "Travel and Allowances Revolving Funds". These revolving

1 funds shall be used for advancing travel and expense allowances  
2 to committed, paroled, and discharged prisoners. The moneys  
3 paid into such revolving funds shall be from appropriations to  
4 the Department for Committed, Paroled, and Discharged  
5 Prisoners.

6 (b) (Blank).

7 (c) Except as otherwise provided in this Code, the  
8 Department shall establish procedures to provide written  
9 notification of any release of any person who has been  
10 convicted of a felony to the State's Attorney and sheriff of  
11 the county from which the offender was committed, and the  
12 State's Attorney and sheriff of the county into which the  
13 offender is to be paroled or released. Except as otherwise  
14 provided in this Code, the Department shall establish  
15 procedures to provide written notification to the proper law  
16 enforcement agency for any municipality of any release of any  
17 person who has been convicted of a felony if the arrest of the  
18 offender or the commission of the offense took place in the  
19 municipality, if the offender is to be paroled or released into  
20 the municipality, or if the offender resided in the  
21 municipality at the time of the commission of the offense. If a  
22 person convicted of a felony who is in the custody of the  
23 Department of Corrections or on parole or mandatory supervised  
24 release informs the Department that he or she has resided,  
25 resides, or will reside at an address that is a housing  
26 facility owned, managed, operated, or leased by a public

1 housing agency, the Department must send written notification  
2 of that information to the public housing agency that owns,  
3 manages, operates, or leases the housing facility. The written  
4 notification shall, when possible, be given at least 14 days  
5 before release of the person from custody, or as soon  
6 thereafter as possible.

7 (c-1) (Blank).

8 (c-5) If a person on parole or mandatory supervised release  
9 becomes a resident of a facility or participant in a program  
10 licensed or regulated by the Department of Public Health, the  
11 Illinois Department of Healthcare and Family Services ~~of Public~~  
12 ~~Aid, or~~ the Illinois Department of Human Services, or the  
13 Department on Aging, the Department of Corrections shall  
14 provide copies of the following information to the appropriate  
15 licensing or regulating Department and the licensed or  
16 regulated facility where the person becomes a resident:

17 (1) The mittimus and any pre-sentence investigation  
18 reports.

19 (2) The social evaluation prepared pursuant to Section  
20 3-8-2.

21 (3) Any pre-release evaluation conducted pursuant to  
22 subsection (j) of Section 3-6-2.

23 (4) Reports of disciplinary infractions and  
24 dispositions.

25 (5) Any parole plan, including orders issued by the  
26 Prisoner Review Board, and any violation reports and

1 dispositions.

2 (6) The name and contact information for the assigned  
3 parole agent and parole supervisor.

4 This information shall be provided within 3 days of the  
5 person becoming a resident of the facility.

6 (c-10) If a person on parole or mandatory supervised  
7 release becomes a resident of a facility licensed or regulated  
8 by the Department of Public Health, the Illinois Department of  
9 Public Aid, or the Illinois Department of Human Services, the  
10 Department of Corrections shall provide written notification  
11 of such residence to the following:

12 (1) The Prisoner Review Board.

13 (2) The chief of police and sheriff in the municipality  
14 and county in which the licensed facility is located.

15 The notification shall be provided within 3 days of the  
16 person becoming a resident of the facility.

17 (d) Upon the release of a committed person on parole,  
18 mandatory supervised release, final discharge or pardon, the  
19 Department shall provide such person with information  
20 concerning programs and services of the Illinois Department of  
21 Public Health to ascertain whether such person has been exposed  
22 to the human immunodeficiency virus (HIV) or any identified  
23 causative agent of Acquired Immunodeficiency Syndrome (AIDS).

24 (e) Upon the release of a committed person on parole,  
25 mandatory supervised release, final discharge, or pardon, the  
26 Department shall provide the person who has met the criteria

1 established by the Department with an identification card  
2 identifying the person as being on parole, mandatory supervised  
3 release, final discharge, or pardon, as the case may be. The  
4 Department, in consultation with the Office of the Secretary of  
5 State, shall prescribe the form of the identification card,  
6 which may be similar to the form of the standard Illinois  
7 Identification Card. The Department shall inform the committed  
8 person that he or she may present the identification card to  
9 the Office of the Secretary of State upon application for a  
10 standard Illinois Identification Card in accordance with the  
11 Illinois Identification Card Act. The Department shall require  
12 the committed person to pay a \$1 fee for the identification  
13 card.

14 For purposes of a committed person receiving an  
15 identification card issued by the Department under this  
16 subsection, the Department shall establish criteria that the  
17 committed person must meet before the card is issued. It is the  
18 sole responsibility of the committed person requesting the  
19 identification card issued by the Department to meet the  
20 established criteria. The person's failure to meet the criteria  
21 is sufficient reason to deny the committed person the  
22 identification card. An identification card issued by the  
23 Department under this subsection shall be valid for a period of  
24 time not to exceed 30 calendar days from the date the card is  
25 issued. The Department shall not be held civilly or criminally  
26 liable to anyone because of any act of any person utilizing a



1 card issued by the Department under this subsection.

2 The Department shall adopt rules governing the issuance of  
3 identification cards to committed persons being released on  
4 parole, mandatory supervised release, final discharge, or  
5 pardon.

6 (Source: P.A. 94-163, eff. 7-11-05.)

7 Section 999. Effective date. This Act takes effect upon  
8 becoming law.".