

# HB3841



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB3841**

by Rep. Elgie R. Sims, Jr.

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-201.5

Amends the Nursing Home Care Act. In a provision that requires a facility to conduct a criminal history background check for all persons age 18 or older seeking admission to the facility, provides that a facility is not required to conduct the criminal history background check if a criminal history background check was completed by the facility the resident resided at prior to seeking admission to the facility and the resident was transferred to the facility with no time passing during which the resident was not institutionalized.

LRB099 09358 RPS 29563 b

A BILL FOR

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 Nursing Home Care Act is amended by changing  
5 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  
17 Healthcare and Family Services, in collaboration with the  
18 Department on Aging, the Department of Human Services, and the  
19 Department of Public Health, shall file administrative rules  
20 providing for the gathering, during the screening process, of  
21 information relevant to determining each person's potential  
22 for placing other residents, employees, and visitors at risk of  
23 harm.

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

17 (a-2) Pre-screening for persons with a serious mental  
18 illness shall be performed by a psychiatrist, a psychologist, a  
19 registered nurse certified in psychiatric nursing, a licensed  
20 clinical professional counselor, or a licensed clinical social  
21 worker, who is competent to (i) perform a clinical assessment  
22 of the individual, (ii) certify a diagnosis, (iii) make a  
23 determination about the individual's current need for  
24 treatment, including substance abuse treatment, and recommend  
25 specific treatment, and (iv) determine whether a facility or a  
26 community-based program is able to meet the needs of the

1 individual.

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

13 Upon the person entering the nursing facility, the  
14 Department of Human Services or its designee shall assist the  
15 person in establishing a relationship with a community mental  
16 health agency or other appropriate agencies in order to (i)  
17 promote the person's transition to independent living and (ii)  
18 support the person's progress in meeting individual goals.

19 (a-3) The Department of Human Services, by rule, shall  
20 provide for a prohibition on conflicts of interest for  
21 pre-admission screeners. The rule shall provide for waiver of  
22 those conflicts by the Department of Human Services if the  
23 Department of Human Services determines that a scarcity of  
24 qualified pre-admission screeners exists in a given community  
25 and that, absent a waiver of conflicts, an insufficient number  
26 of pre-admission screeners would be available. If a conflict is

1 waived, the pre-admission screener shall disclose the conflict  
2 of interest to the screened individual in the manner provided  
3 for by rule of the Department of Human Services. For the  
4 purposes of this subsection, a "conflict of interest" includes,  
5 but is not limited to, the existence of a professional or  
6 financial relationship between (i) a PAS-MH corporate or a  
7 PAS-MH agent and (ii) a community provider or long-term care  
8 facility.

9 (b) In addition to the screening required by subsection  
10 (a), a facility, except for those licensed as long term care  
11 for under age 22 facilities, shall, within 24 hours after  
12 admission, request a criminal history background check  
13 pursuant to the Uniform Conviction Information Act for all  
14 persons age 18 or older seeking admission to the facility,  
15 unless (i) a background check was initiated by a hospital  
16 pursuant to subsection (d) of Section 6.09 of the Hospital  
17 Licensing Act or (ii) a background check was completed by the  
18 facility the resident resided at prior to seeking admission to  
19 the facility and the resident was transferred to the facility  
20 with no time passing during which the resident was not  
21 institutionalized. Background checks conducted pursuant to  
22 this Section shall be based on the resident's name, date of  
23 birth, and other identifiers as required by the Department of  
24 State Police. If the results of the background check are  
25 inconclusive, the facility shall initiate a fingerprint-based  
26 check, unless the fingerprint check is waived by the Director

1 of Public Health based on verification by the facility that the  
2 resident is completely immobile or that the resident meets  
3 other criteria related to the resident's health or lack of  
4 potential risk which may be established by Departmental rule. A  
5 waiver issued pursuant to this Section shall be valid only  
6 while the resident is immobile or while the criteria supporting  
7 the waiver exist. The facility shall provide for or arrange for  
8 any required fingerprint-based checks to be taken on the  
9 premises of the facility. If a fingerprint-based check is  
10 required, the facility shall arrange for it to be conducted in  
11 a manner that is respectful of the resident's dignity and that  
12 minimizes any emotional or physical hardship to the resident.

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

17 (1) Immediately notify the Department of State Police,  
18 in the form and manner required by the Department of State  
19 Police, in collaboration with the Department of Public  
20 Health, that the resident is an identified offender.

21 (2) Within 72 hours, arrange for a fingerprint-based  
22 criminal history record inquiry to be requested on the  
23 identified offender resident. The inquiry shall be based on  
24 the subject's name, sex, race, date of birth, fingerprint  
25 images, and other identifiers required by the Department of  
26 State Police. The inquiry shall be processed through the

1 files of the Department of State Police and the Federal  
2 Bureau of Investigation to locate any criminal history  
3 record information that may exist regarding the subject.  
4 The Federal Bureau of Investigation shall furnish to the  
5 Department of State Police, pursuant to an inquiry under  
6 this paragraph (2), any criminal history record  
7 information contained in its files.

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

10 All name-based and fingerprint-based criminal history  
11 record inquiries shall be submitted to the Department of State  
12 Police electronically in the form and manner prescribed by the  
13 Department of State Police. The Department of State Police may  
14 charge the facility a fee for processing name-based and  
15 fingerprint-based criminal history record inquiries. The fee  
16 shall be deposited into the State Police Services Fund. The fee  
17 shall not exceed the actual cost of processing the inquiry.

18 (d) (Blank).

19 (e) The Department shall develop and maintain a  
20 de-identified database of residents who have injured facility  
21 staff, facility visitors, or other residents, and the attendant  
22 circumstances, solely for the purposes of evaluating and  
23 improving resident pre-screening and assessment procedures  
24 (including the Criminal History Report prepared under Section  
25 2-201.6) and the adequacy of Department requirements  
26 concerning the provision of care and services to residents. A

1 resident shall not be listed in the database until a Department  
2 survey confirms the accuracy of the listing. The names of  
3 persons listed in the database and information that would allow  
4 them to be individually identified shall not be made public.  
5 Neither the Department nor any other agency of State government  
6 may use information in the database to take any action against  
7 any individual, licensee, or other entity, unless the  
8 Department or agency receives the information independent of  
9 this subsection (e). All information collected, maintained, or  
10 developed under the authority of this subsection (e) for the  
11 purposes of the database maintained under this subsection (e)  
12 shall be treated in the same manner as information that is  
13 subject to Part 21 of Article VIII of the Code of Civil  
14 Procedure.

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