

AN ACT concerning regulation.

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

Section 5. 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; Voluntary FBI Fingerprint Demonstration Project.

(a) The General Assembly authorizes the establishment of the Voluntary FBI Fingerprint Demonstration Project (Demonstration Project), which shall be consistent with the provisions of the Centers for Medicare and Medicaid Services grant awarded to and distributed by the Department of Public Health pursuant to Title VI, Subtitle B, Part III, Subtitle C, Section 6201 of the Affordable Care Act of 2010. The Demonstration Project is authorized to operate for the period of January 1, 2014 through December 31, 2014 and shall operate until the conclusion of this grant period or until the long-term care facility terminates its participation in the Demonstration Project, whichever occurs sooner.

(b) The Long-Term Care Facility Advisory Board established under the Nursing Home Care Act shall act in an advisory capacity to the Demonstration Project.

(c) Long-term care facilities voluntarily participating in the Demonstration Project shall, in addition to the provisions of this Section, comply with all requirements set forth in this Act. When conflict between the Act and the provisions of this Section occurs, the provisions of this Section shall supersede until the conclusion of the grant period or until the long-term care facility terminates its participation in the Demonstration Project, whichever occurs sooner.

(d) The Department of Public Health shall select at least one facility in the State to participate in the Demonstration Project.

(e) For the purposes of determining who shall be required to undergo a State and an FBI fingerprint-based criminal history records check under the Demonstration Project, "direct access employee" means any individual who has access to a patient or resident of a long-term care facility or provider through employment or through a contract with a long-term care facility or provider and has duties that involve or may involve one-on-one contact with a resident of the facility or provider, as determined by the State for purposes of the Demonstration Project.

(f) All long-term care facilities licensed under the Nursing Home Care Act are qualified to volunteer for the Demonstration Project.

(g) The Department of Public Health shall notify qualified long-term care facilities within 30 days after the effective

date of this amendatory Act of the 98th General Assembly of the opportunity to volunteer for the Demonstration Project. The notice shall include information concerning application procedures and deadlines, termination rights, requirements for participation, the selection process, and a question-and-answer document addressing potential conflicts between this Act and the provisions of this Section.

(h) Qualified long-term care facilities shall be given a minimum of 30 days after the date of receiving the notice to inform the Department of Public Health, in the form and manner prescribed by the Department of Public Health, of their interest in volunteering for the Demonstration Project. Facilities selected for the Demonstration Project shall be notified, within 30 days after the date of application, of the effective date that their participation in the Demonstration Project will begin, which may vary.

(i) The individual applicant shall be responsible for the cost of each individual fingerprint inquiry, which may be offset with grant funds, if available.

~~(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, Home Services, and Home Nursing 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;~~

~~(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.~~

(j) ~~(d)~~ Each applicant seeking employment in a position described in subsection (e) ~~(e)~~ 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.

~~(c) 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.~~

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

(l) A long-term care facility may terminate its participation in the Demonstration Project without prejudice by providing the Department of Public Health with notice of its intent to terminate at least 30 days prior to its voluntary termination.

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

(Source: P.A. 94-665, eff. 1-1-06; 94-931, eff. 6-26-06; 95-331, eff. 8-21-07; revised 11-14-13.)

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