



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3661

Introduced 2/9/2024, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

225 ILCS 46/5
225 ILCS 46/10
225 ILCS 46/15
225 ILCS 46/80 new

Amends the Health Care Worker Background Check Act. Provides that the Act applies to all employees, volunteers, interns, unpaid personnel, and agents of comprehensive community mental health centers. Makes conforming changes. Defines the term "comprehensive community mental health center". Changes the definition of "direct care". Allows the Department of Public Health to adopt rules to implement the Act as it relates to comprehensive community mental health centers.

LRB103 38680 RTM 68817 b

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 5, 10, and 15 and by adding
6 Section 80 as follows:

7 (225 ILCS 46/5)

8 Sec. 5. Purpose. The General Assembly finds that it is in
9 the public interest to protect the citizens of the State of
10 Illinois who are the most frail and who are persons with
11 disabilities from possible harm through a criminal background
12 check of: (1) certain health care workers; (2) ~~and~~ all
13 employees of licensed and certified long-term care facilities
14 who have or may have contact with residents or have access to
15 the living quarters or the financial, medical, or personal
16 records of residents; and (3) employees, volunteers, interns,
17 unpaid personnel, and agents of comprehensive community mental
18 health centers certified by the Department of Human Services.

19 (Source: P.A. 99-143, eff. 7-27-15.)

20 (225 ILCS 46/10)

21 Sec. 10. Applicability. This Act applies to:

22 (1) all individuals employed or retained by a health

1 care employer as home health care aides, nurse aides,
2 personal care assistants, private duty nurse aides, day
3 training personnel, or an individual working in any
4 similar health-related occupation where he or she provides
5 direct care or has access to long-term care residents or
6 the living quarters or financial, medical, or personal
7 records of long-term care residents;~~;~~

8 ~~(2) This Act also applies to~~ all employees of licensed
9 or certified long-term care facilities who have or may
10 have contact with residents or access to the living
11 quarters or the financial, medical, or personal records of
12 residents; and

13 (3) all employees, volunteers, interns, unpaid
14 personnel, and agents of comprehensive community mental
15 health centers.

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

17 (225 ILCS 46/15)

18 Sec. 15. Definitions. In this Act:

19 "Applicant" means an individual enrolling in a training
20 program, seeking employment, whether paid or on a volunteer
21 basis, with a health care employer who has received a bona fide
22 conditional offer of employment.

23 "Conditional offer of employment" means a bona fide offer
24 of employment by a health care employer to an applicant, which
25 is contingent upon the receipt of a report from the Department

1 of Public Health indicating that the applicant does not have a
2 record of conviction of any of the criminal offenses
3 enumerated in Section 25.

4 "Department" means the Department of Public Health.

5 "Direct care" means

6 (1) the provision of nursing care or assistance with
7 feeding, dressing, movement, bathing, toileting, or other
8 personal needs, including home services as defined in the
9 Home Health, Home Services, and Home Nursing Agency
10 Licensing Act; or

11 (2) the normal clinical and non-clinical interactions
12 that an employee may have when interacting with a client,
13 patient, or resident.

14 The entity responsible for inspecting and licensing,
15 certifying, or registering the health care employer may, by
16 administrative rule, prescribe guidelines for interpreting
17 this definition with regard to the health care employers that
18 it licenses.

19 "Comprehensive community mental health center" means an
20 entity certified by the Department under 59 Ill. Adm. Code
21 132.

22 "Director" means the Director of Public Health.

23 "Disqualifying offenses" means those offenses set forth in
24 Section 25 of this Act.

25 "Employee" means any individual hired, employed, or
26 retained, whether paid or on a volunteer basis, to which this

1 Act applies.

2 "Finding" means the Department's determination of whether
3 an allegation is verified and substantiated.

4 "Fingerprint-based criminal history records check" means a
5 livescan fingerprint-based criminal history records check
6 submitted as a fee applicant inquiry in the form and manner
7 prescribed by the Illinois State Police.

8 "Health care employer" means:

9 (1) the owner or licensee of any of the following:

10 (i) a community living facility, as defined in the
11 Community Living Facilities Licensing Act;

12 (ii) a life care facility, as defined in the Life
13 Care Facilities Act;

14 (iii) a long-term care facility;

15 (iv) a home health agency, home services agency,
16 or home nursing agency as defined in the Home Health,
17 Home Services, and Home Nursing Agency Licensing Act;

18 (v) a hospice care program or volunteer hospice
19 program, as defined in the Hospice Program Licensing
20 Act;

21 (vi) a hospital, as defined in the Hospital
22 Licensing Act;

23 (vii) (blank);

24 (viii) a nurse agency, as defined in the Nurse
25 Agency Licensing Act;

26 (ix) a respite care provider, as defined in the

1 Respite Program Act;

2 (ix-a) an establishment licensed under the
3 Assisted Living and Shared Housing Act;

4 (x) a supportive living program, as defined in the
5 Illinois Public Aid Code;

6 (xi) early childhood intervention programs as
7 described in 59 Ill. Adm. Code 121;

8 (xii) the University of Illinois Hospital,
9 Chicago;

10 (xiii) programs funded by the Department on Aging
11 through the Community Care Program;

12 (xiv) programs certified to participate in the
13 Supportive Living Program authorized pursuant to
14 Section 5-5.01a of the Illinois Public Aid Code;

15 (xv) programs listed by the Emergency Medical
16 Services (EMS) Systems Act as Freestanding Emergency
17 Centers;

18 (xvi) locations licensed under the Alternative
19 Health Care Delivery Act;

20 (2) a day training program certified by the Department
21 of Human Services;

22 (3) a community integrated living arrangement operated
23 by a community mental health and developmental service
24 agency, as defined in the Community-Integrated Living
25 Arrangements Licensure and Certification Act;

26 (4) the State Long Term Care Ombudsman Program,

1 including any regional long term care ombudsman programs
2 under Section 4.04 of the Illinois Act on the Aging, only
3 for the purpose of securing background checks;

4 (5) the Department of Corrections or a third-party
5 vendor employing certified nursing assistants working with
6 the Department of Corrections; ~~or~~

7 (6) a financial management services entity contracted
8 with the Department of Human Services, Division of
9 Developmental Disabilities, which is not the employer of
10 personal support workers but supports individuals
11 receiving participant directed services, to administer the
12 individuals' employer authority. A financial management
13 services entity assists participants in completing
14 background check requirements, collecting and processing
15 time sheets for support workers, and processing payroll,
16 withholding, filing, and payment of applicable federal,
17 State, and local employment-related taxes and insurance;
18 or

19 (7) a comprehensive community mental health center
20 certified by the Department.

21 "Initiate" means obtaining from a student, applicant, or
22 employee his or her social security number, demographics, a
23 disclosure statement, and an authorization for the Department
24 of Public Health or its designee to request a
25 fingerprint-based criminal history records check; transmitting
26 this information electronically to the Department of Public

1 Health; conducting Internet searches on certain web sites,
2 including without limitation the Illinois Sex Offender
3 Registry, the Department of Corrections' Sex Offender Search
4 Engine, the Department of Corrections' Inmate Search Engine,
5 the Department of Corrections Wanted Fugitives Search Engine,
6 the National Sex Offender Public Registry, and the List of
7 Excluded Individuals and Entities database on the website of
8 the Health and Human Services Office of Inspector General to
9 determine if the applicant has been adjudicated a sex
10 offender, has been a prison inmate, or has committed Medicare
11 or Medicaid fraud, or conducting similar searches as defined
12 by rule; and having the student, applicant, or employee's
13 fingerprints collected and transmitted electronically to the
14 Illinois State Police.

15 "Livescan vendor" means an entity whose equipment has been
16 certified by the Illinois State Police to collect an
17 individual's demographics and inkless fingerprints and, in a
18 manner prescribed by the Illinois State Police and the
19 Department of Public Health, electronically transmit the
20 fingerprints and required data to the Illinois State Police
21 and a daily file of required data to the Department of Public
22 Health. The Department of Public Health shall negotiate a
23 contract with one or more vendors that effectively demonstrate
24 that the vendor has 2 or more years of experience transmitting
25 fingerprints electronically to the Illinois State Police and
26 that the vendor can successfully transmit the required data in

1 a manner prescribed by the Department of Public Health. Vendor
2 authorization may be further defined by administrative rule.

3 "Long-term care facility" means a facility licensed by the
4 State or certified under federal law as a long-term care
5 facility, including without limitation facilities licensed
6 under the Nursing Home Care Act, the Specialized Mental Health
7 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
8 the MC/DD Act, a supportive living facility, an assisted
9 living establishment, or a shared housing establishment or
10 registered as a board and care home.

11 "Resident" means a person, individual, or patient under
12 the direct care of a health care employer or who has been
13 provided goods or services by a health care employer.

14 (Source: P.A. 102-226, eff. 7-30-21; 102-503, eff. 8-20-21;
15 102-538, eff. 8-20-21; 102-813, eff. 5-13-22; 103-303, eff.
16 1-1-24.)

17 (225 ILCS 46/80 new)

18 Sec. 80. Rulemaking. The Department may adopt rules to
19 implement this Act as it relates to comprehensive community
20 mental health centers, including allowing waivers of
21 background check requirements for employees with lived
22 expertise.