



## 93RD GENERAL ASSEMBLY

### State of Illinois

### 2003 and 2004

Introduced 02/06/04, by Michael J. Madigan

#### SYNOPSIS AS INTRODUCED:

225 ILCS 46/30

Amends the Health Care Worker Background Check Act. Makes technical changes to a Section concerning non-fingerprint based UCIA criminal records checks.

LRB093 17318 AMC 42984 b

1 AN ACT regarding professional 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 Section 30 as follows:

6 (225 ILCS 46/30)

7 Sec. 30. Non-fingerprint based UCIA criminal records  
8 check.

9 (a) Beginning on January 1, 1997, an educational entity,  
10 other than a secondary school, conducting a nurse aide training  
11 program must initiate a UCIA criminal history records check  
12 prior to entry of an individual into the training program. A  
13 nurse aide seeking to be included on the nurse aide registry  
14 must ~~shall~~ authorize the Department of Public Health or its  
15 designee that tests nurse aides or the health care employer or  
16 its designee to request a criminal history record check  
17 pursuant to the Uniform Conviction Information Act (UCIA) for  
18 each nurse aide applying for inclusion on the State nurse aide  
19 registry. Any nurse aide not submitting the required  
20 authorization and information for the record check will not be  
21 added to the State nurse aide registry. A nurse aide will not  
22 be entered on the State nurse aide registry if the report from  
23 the Department of State Police indicates that the nurse aide  
24 has a record of conviction of any of the criminal offenses  
25 enumerated in Section 25 unless the nurse aide's identity is  
26 validated and it is determined that the nurse aide does not  
27 have a disqualifying criminal history record based upon a  
28 fingerprint-based records check pursuant to Section 35 or the  
29 nurse aide receives a waiver pursuant to Section 40.

30 (b) The Department of Public Health must ~~shall~~ notify each  
31 health care employer inquiring as to the information on the  
32 State nurse aide registry of the date of the nurse aide's last

1 UCIA criminal history record check. If it has been more than  
2 one year since the records check, the health care employer must  
3 initiate or have initiated on his or her behalf a UCIA criminal  
4 history record check for the nurse aide pursuant to this  
5 Section. The health care employer must send a copy of the  
6 results of the record check to the State nurse aide registry  
7 for an individual employed as a nurse aide.

8 (c) Beginning January 1, 1996, a health care employer who  
9 makes a conditional offer of employment to an applicant other  
10 than a nurse aide for position with duties that involve direct  
11 care for clients, patients, or residents must initiate or have  
12 initiated on his or her behalf a UCIA criminal history record  
13 check for that applicant.

14 (d) No later than January 1, 1997, a health care employer  
15 must initiate or have initiated on his or her behalf a UCIA  
16 criminal history record check for all employees other than  
17 those enumerated in subsections (a), (b), and (c) of this  
18 Section with duties that involve direct care for clients,  
19 patients, or residents. A health care employer having actual  
20 knowledge from a source other than a non-fingerprint check that  
21 an employee has been convicted of committing or attempting to  
22 commit one of the offenses enumerated in Section 25 of this Act  
23 must initiate a fingerprint-based background check within 10  
24 working days of acquiring that knowledge. The employer may  
25 continue to employ that individual in a direct care position,  
26 may reassign that individual to a non-direct care position, or  
27 may suspend the individual until the results of the  
28 fingerprint-based background check are received.

29 (e) The request for a UCIA criminal history record check  
30 must be in the form prescribed by the Department of State  
31 Police.

32 (f) The applicant or employee must be notified of the  
33 following whenever a non-fingerprint check is made:

34 (i) that the health care employer shall request or have  
35 requested on his or her behalf a UCIA criminal history  
36 record check pursuant to this Act;

1           (ii) that the applicant or employee has a right to  
2 obtain a copy of the criminal records report from the  
3 health care employer, challenge the accuracy and  
4 completeness of the report, and request a waiver under  
5 Section 40 of this Act;

6           (iii) that the applicant, if hired conditionally, may  
7 be terminated if the criminal records report indicates that  
8 the applicant has a record of conviction of any of the  
9 criminal offenses enumerated in Section 25 unless the  
10 applicant's identity is validated and it is determined that  
11 the applicant does not have a disqualifying criminal  
12 history record based on a fingerprint-based records check  
13 pursuant to Section 35.

14           (iv) that the applicant, if not hired conditionally,  
15 shall not be hired if the criminal records report indicates  
16 that the applicant has a record of conviction of any of the  
17 criminal offenses enumerated in Section 25 unless the  
18 applicant's record is cleared based on a fingerprint-based  
19 records check pursuant to Section 35.

20           (v) that the employee may be terminated if the criminal  
21 records report indicates that the employee has a record of  
22 conviction of any of the criminal offenses enumerated in  
23 Section 25 unless the employee's record is cleared based on  
24 a fingerprint-based records check pursuant to Section 35.

25           (g) A health care employer may conditionally employ an  
26 applicant to provide direct care for up to 3 months pending the  
27 results of a UCIA criminal history record check.

28           (Source: P.A. 91-598, eff. 1-1-00.)