

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 Open Meetings Act is amended by changing
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall
9 be open to the public unless excepted in subsection (c) and
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained
12 in subsection (c) are in derogation of the requirement that
13 public bodies meet in the open, and therefore, the exceptions
14 are to be strictly construed, extending only to subjects
15 clearly within their scope. The exceptions authorize but do not
16 require the holding of a closed meeting to discuss a subject
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to
19 consider the following subjects:

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees of the public body or legal counsel for the
23 public body, including hearing testimony on a complaint
24 lodged against an employee of the public body or against
25 legal counsel for the public body to determine its
26 validity.

27 (2) Collective negotiating matters between the public
28 body and its employees or their representatives, or
29 deliberations concerning salary schedules for one or more
30 classes of employees.

31 (3) The selection of a person to fill a public office,
32 as defined in this Act, including a vacancy in a public

1 office, when the public body is given power to appoint
2 under law or ordinance, or the discipline, performance or
3 removal of the occupant of a public office, when the public
4 body is given power to remove the occupant under law or
5 ordinance.

6 (4) Evidence or testimony presented in open hearing, or
7 in closed hearing where specifically authorized by law, to
8 a quasi-adjudicative body, as defined in this Act, provided
9 that the body prepares and makes available for public
10 inspection a written decision setting forth its
11 determinative reasoning.

12 (5) The purchase or lease of real property for the use
13 of the public body, including meetings held for the purpose
14 of discussing whether a particular parcel should be
15 acquired.

16 (6) The setting of a price for sale or lease of
17 property owned by the public body.

18 (7) The sale or purchase of securities, investments, or
19 investment contracts.

20 (8) Security procedures and the use of personnel and
21 equipment to respond to an actual, a threatened, or a
22 reasonably potential danger to the safety of employees,
23 students, staff, the public, or public property.

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in special
26 education programs and other matters relating to
27 individual students.

28 (11) Litigation, when an action against, affecting or
29 on behalf of the particular public body has been filed and
30 is pending before a court or administrative tribunal, or
31 when the public body finds that an action is probable or
32 imminent, in which case the basis for the finding shall be
33 recorded and entered into the minutes of the closed
34 meeting.

35 (12) The establishment of reserves or settlement of
36 claims as provided in the Local Governmental and

1 Governmental Employees Tort Immunity Act, if otherwise the
2 disposition of a claim or potential claim might be
3 prejudiced, or the review or discussion of claims, loss or
4 risk management information, records, data, advice or
5 communications from or with respect to any insurer of the
6 public body or any intergovernmental risk management
7 association or self insurance pool of which the public body
8 is a member.

9 (13) Conciliation of complaints of discrimination in
10 the sale or rental of housing, when closed meetings are
11 authorized by the law or ordinance prescribing fair housing
12 practices and creating a commission or administrative
13 agency for their enforcement.

14 (14) Informant sources, the hiring or assignment of
15 undercover personnel or equipment, or ongoing, prior or
16 future criminal investigations, when discussed by a public
17 body with criminal investigatory responsibilities.

18 (15) Professional ethics or performance when
19 considered by an advisory body appointed to advise a
20 licensing or regulatory agency on matters germane to the
21 advisory body's field of competence.

22 (16) Self evaluation, practices and procedures or
23 professional ethics, when meeting with a representative of
24 a statewide association of which the public body is a
25 member.

26 (17) The recruitment, credentialing, discipline or
27 formal peer review of physicians or other health care
28 professionals for a hospital, or other institution
29 providing medical care, that is operated by the public
30 body.

31 (18) Deliberations for decisions of the Prisoner
32 Review Board.

33 (19) Review or discussion of applications received
34 under the Experimental Organ Transplantation Procedures
35 Act.

36 (20) The classification and discussion of matters

1 classified as confidential or continued confidential by
2 the State Employees Suggestion Award Board.

3 (21) Discussion of minutes of meetings lawfully closed
4 under this Act, whether for purposes of approval by the
5 body of the minutes or semi-annual review of the minutes as
6 mandated by Section 2.06.

7 (22) Deliberations for decisions of the State
8 Emergency Medical Services Disciplinary Review Board.

9 (23) The operation by a municipality of a municipal
10 utility or the operation of a municipal power agency or
11 municipal natural gas agency when the discussion involves
12 (i) contracts relating to the purchase, sale, or delivery
13 of electricity or natural gas or (ii) the results or
14 conclusions of load forecast studies.

15 (24) Meetings of a residential health care facility
16 resident sexual assault and death review team or the
17 ~~Residential Health Care Facility Resident Sexual Assault~~
18 ~~and Death Review Teams~~ Executive Council under the Abuse
19 Prevention ~~Residential Health Care Facility Resident~~
20 ~~Sexual Assault and Death~~ Review Team Act.

21 (d) Definitions. For purposes of this Section:

22 "Employee" means a person employed by a public body whose
23 relationship with the public body constitutes an
24 employer-employee relationship under the usual common law
25 rules, and who is not an independent contractor.

26 "Public office" means a position created by or under the
27 Constitution or laws of this State, the occupant of which is
28 charged with the exercise of some portion of the sovereign
29 power of this State. The term "public office" shall include
30 members of the public body, but it shall not include
31 organizational positions filled by members thereof, whether
32 established by law or by a public body itself, that exist to
33 assist the body in the conduct of its business.

34 "Quasi-adjudicative body" means an administrative body
35 charged by law or ordinance with the responsibility to conduct
36 hearings, receive evidence or testimony and make

1 determinations based thereon, but does not include local
2 electoral boards when such bodies are considering petition
3 challenges.

4 (e) Final action. No final action may be taken at a closed
5 meeting. Final action shall be preceded by a public recital of
6 the nature of the matter being considered and other information
7 that will inform the public of the business being conducted.

8 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,
9 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

10 Section 10. The Freedom of Information Act is amended by
11 changing Section 7 as follows:

12 (5 ILCS 140/7) (from Ch. 116, par. 207)

13 Sec. 7. Exemptions.

14 (1) The following shall be exempt from inspection and
15 copying:

16 (a) Information specifically prohibited from
17 disclosure by federal or State law or rules and regulations
18 adopted under federal or State law.

19 (b) Information that, if disclosed, would constitute a
20 clearly unwarranted invasion of personal privacy, unless
21 the disclosure is consented to in writing by the individual
22 subjects of the information. The disclosure of information
23 that bears on the public duties of public employees and
24 officials shall not be considered an invasion of personal
25 privacy. Information exempted under this subsection (b)
26 shall include but is not limited to:

27 (i) files and personal information maintained with
28 respect to clients, patients, residents, students or
29 other individuals receiving social, medical,
30 educational, vocational, financial, supervisory or
31 custodial care or services directly or indirectly from
32 federal agencies or public bodies;

33 (ii) personnel files and personal information
34 maintained with respect to employees, appointees or

1 elected officials of any public body or applicants for
2 those positions;

3 (iii) files and personal information maintained
4 with respect to any applicant, registrant or licensee
5 by any public body cooperating with or engaged in
6 professional or occupational registration, licensure
7 or discipline;

8 (iv) information required of any taxpayer in
9 connection with the assessment or collection of any tax
10 unless disclosure is otherwise required by State
11 statute;

12 (v) information revealing the identity of persons
13 who file complaints with or provide information to
14 administrative, investigative, law enforcement or
15 penal agencies; provided, however, that identification
16 of witnesses to traffic accidents, traffic accident
17 reports, and rescue reports may be provided by agencies
18 of local government, except in a case for which a
19 criminal investigation is ongoing, without
20 constituting a clearly unwarranted per se invasion of
21 personal privacy under this subsection; and

22 (vi) the names, addresses, or other personal
23 information of participants and registrants in park
24 district, forest preserve district, and conservation
25 district programs.

26 (c) Records compiled by any public body for
27 administrative enforcement proceedings and any law
28 enforcement or correctional agency for law enforcement
29 purposes or for internal matters of a public body, but only
30 to the extent that disclosure would:

31 (i) interfere with pending or actually and
32 reasonably contemplated law enforcement proceedings
33 conducted by any law enforcement or correctional
34 agency;

35 (ii) interfere with pending administrative
36 enforcement proceedings conducted by any public body;

1 (iii) deprive a person of a fair trial or an
2 impartial hearing;

3 (iv) unavoidably disclose the identity of a
4 confidential source or confidential information
5 furnished only by the confidential source;

6 (v) disclose unique or specialized investigative
7 techniques other than those generally used and known or
8 disclose internal documents of correctional agencies
9 related to detection, observation or investigation of
10 incidents of crime or misconduct;

11 (vi) constitute an invasion of personal privacy
12 under subsection (b) of this Section;

13 (vii) endanger the life or physical safety of law
14 enforcement personnel or any other person; or

15 (viii) obstruct an ongoing criminal investigation.

16 (d) Criminal history record information maintained by
17 State or local criminal justice agencies, except the
18 following which shall be open for public inspection and
19 copying:

20 (i) chronologically maintained arrest information,
21 such as traditional arrest logs or blotters;

22 (ii) the name of a person in the custody of a law
23 enforcement agency and the charges for which that
24 person is being held;

25 (iii) court records that are public;

26 (iv) records that are otherwise available under
27 State or local law; or

28 (v) records in which the requesting party is the
29 individual identified, except as provided under part
30 (vii) of paragraph (c) of subsection (1) of this
31 Section.

32 "Criminal history record information" means data
33 identifiable to an individual and consisting of
34 descriptions or notations of arrests, detentions,
35 indictments, informations, pre-trial proceedings, trials,
36 or other formal events in the criminal justice system or

1 descriptions or notations of criminal charges (including
2 criminal violations of local municipal ordinances) and the
3 nature of any disposition arising therefrom, including
4 sentencing, court or correctional supervision,
5 rehabilitation and release. The term does not apply to
6 statistical records and reports in which individuals are
7 not identified and from which their identities are not
8 ascertainable, or to information that is for criminal
9 investigative or intelligence purposes.

10 (e) Records that relate to or affect the security of
11 correctional institutions and detention facilities.

12 (f) Preliminary drafts, notes, recommendations,
13 memoranda and other records in which opinions are
14 expressed, or policies or actions are formulated, except
15 that a specific record or relevant portion of a record
16 shall not be exempt when the record is publicly cited and
17 identified by the head of the public body. The exemption
18 provided in this paragraph (f) extends to all those records
19 of officers and agencies of the General Assembly that
20 pertain to the preparation of legislative documents.

21 (g) Trade secrets and commercial or financial
22 information obtained from a person or business where the
23 trade secrets or information are proprietary, privileged
24 or confidential, or where disclosure of the trade secrets
25 or information may cause competitive harm, including:

26 (i) All information determined to be confidential
27 under Section 4002 of the Technology Advancement and
28 Development Act.

29 (ii) All trade secrets and commercial or financial
30 information obtained by a public body, including a
31 public pension fund, from a private equity fund or a
32 privately held company within the investment portfolio
33 of a private equity fund as a result of either
34 investing or evaluating a potential investment of
35 public funds in a private equity fund. The exemption
36 contained in this item does not apply to the aggregate

1 financial performance information of a private equity
2 fund, nor to the identity of the fund's managers or
3 general partners. The exemption contained in this item
4 does not apply to the identity of a privately held
5 company within the investment portfolio of a private
6 equity fund, unless the disclosure of the identity of a
7 privately held company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be construed
9 to prevent a person or business from consenting to disclosure.

10 (h) Proposals and bids for any contract, grant, or
11 agreement, including information which if it were
12 disclosed would frustrate procurement or give an advantage
13 to any person proposing to enter into a contractor
14 agreement with the body, until an award or final selection
15 is made. Information prepared by or for the body in
16 preparation of a bid solicitation shall be exempt until an
17 award or final selection is made.

18 (i) Valuable formulae, computer geographic systems,
19 designs, drawings and research data obtained or produced by
20 any public body when disclosure could reasonably be
21 expected to produce private gain or public loss. The
22 exemption for "computer geographic systems" provided in
23 this paragraph (i) does not extend to requests made by news
24 media as defined in Section 2 of this Act when the
25 requested information is not otherwise exempt and the only
26 purpose of the request is to access and disseminate
27 information regarding the health, safety, welfare, or
28 legal rights of the general public.

29 (j) Test questions, scoring keys and other examination
30 data used to administer an academic examination or
31 determined the qualifications of an applicant for a license
32 or employment.

33 (k) Architects' plans, engineers' technical
34 submissions, and other construction related technical
35 documents for projects not constructed or developed in
36 whole or in part with public funds and the same for

1 projects constructed or developed with public funds, but
2 only to the extent that disclosure would compromise
3 security, including but not limited to water treatment
4 facilities, airport facilities, sport stadiums, convention
5 centers, and all government owned, operated, or occupied
6 buildings.

7 (l) Library circulation and order records identifying
8 library users with specific materials.

9 (m) Minutes of meetings of public bodies closed to the
10 public as provided in the Open Meetings Act until the
11 public body makes the minutes available to the public under
12 Section 2.06 of the Open Meetings Act.

13 (n) Communications between a public body and an
14 attorney or auditor representing the public body that would
15 not be subject to discovery in litigation, and materials
16 prepared or compiled by or for a public body in
17 anticipation of a criminal, civil or administrative
18 proceeding upon the request of an attorney advising the
19 public body, and materials prepared or compiled with
20 respect to internal audits of public bodies.

21 (o) Information received by a primary or secondary
22 school, college or university under its procedures for the
23 evaluation of faculty members by their academic peers.

24 (p) Administrative or technical information associated
25 with automated data processing operations, including but
26 not limited to software, operating protocols, computer
27 program abstracts, file layouts, source listings, object
28 modules, load modules, user guides, documentation
29 pertaining to all logical and physical design of
30 computerized systems, employee manuals, and any other
31 information that, if disclosed, would jeopardize the
32 security of the system or its data or the security of
33 materials exempt under this Section.

34 (q) Documents or materials relating to collective
35 negotiating matters between public bodies and their
36 employees or representatives, except that any final

1 contract or agreement shall be subject to inspection and
2 copying.

3 (r) Drafts, notes, recommendations and memoranda
4 pertaining to the financing and marketing transactions of
5 the public body. The records of ownership, registration,
6 transfer, and exchange of municipal debt obligations, and
7 of persons to whom payment with respect to these
8 obligations is made.

9 (s) The records, documents and information relating to
10 real estate purchase negotiations until those negotiations
11 have been completed or otherwise terminated. With regard to
12 a parcel involved in a pending or actually and reasonably
13 contemplated eminent domain proceeding under Article VII
14 of the Code of Civil Procedure, records, documents and
15 information relating to that parcel shall be exempt except
16 as may be allowed under discovery rules adopted by the
17 Illinois Supreme Court. The records, documents and
18 information relating to a real estate sale shall be exempt
19 until a sale is consummated.

20 (t) Any and all proprietary information and records
21 related to the operation of an intergovernmental risk
22 management association or self-insurance pool or jointly
23 self-administered health and accident cooperative or pool.

24 (u) Information concerning a university's adjudication
25 of student or employee grievance or disciplinary cases, to
26 the extent that disclosure would reveal the identity of the
27 student or employee and information concerning any public
28 body's adjudication of student or employee grievances or
29 disciplinary cases, except for the final outcome of the
30 cases.

31 (v) Course materials or research materials used by
32 faculty members.

33 (w) Information related solely to the internal
34 personnel rules and practices of a public body.

35 (x) Information contained in or related to
36 examination, operating, or condition reports prepared by,

1 on behalf of, or for the use of a public body responsible
2 for the regulation or supervision of financial
3 institutions or insurance companies, unless disclosure is
4 otherwise required by State law.

5 (y) Information the disclosure of which is restricted
6 under Section 5-108 of the Public Utilities Act.

7 (z) Manuals or instruction to staff that relate to
8 establishment or collection of liability for any State tax
9 or that relate to investigations by a public body to
10 determine violation of any criminal law.

11 (aa) Applications, related documents, and medical
12 records received by the Experimental Organ Transplantation
13 Procedures Board and any and all documents or other records
14 prepared by the Experimental Organ Transplantation
15 Procedures Board or its staff relating to applications it
16 has received.

17 (bb) Insurance or self insurance (including any
18 intergovernmental risk management association or self
19 insurance pool) claims, loss or risk management
20 information, records, data, advice or communications.

21 (cc) Information and records held by the Department of
22 Public Health and its authorized representatives relating
23 to known or suspected cases of sexually transmissible
24 disease or any information the disclosure of which is
25 restricted under the Illinois Sexually Transmissible
26 Disease Control Act.

27 (dd) Information the disclosure of which is exempted
28 under Section 30 of the Radon Industry Licensing Act.

29 (ee) Firm performance evaluations under Section 55 of
30 the Architectural, Engineering, and Land Surveying
31 Qualifications Based Selection Act.

32 (ff) Security portions of system safety program plans,
33 investigation reports, surveys, schedules, lists, data, or
34 information compiled, collected, or prepared by or for the
35 Regional Transportation Authority under Section 2.11 of
36 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety
2 Act.

3 (gg) Information the disclosure of which is restricted
4 and exempted under Section 50 of the Illinois Prepaid
5 Tuition Act.

6 (hh) Information the disclosure of which is exempted
7 under the State Officials and Employees Ethics Act.

8 (ii) Beginning July 1, 1999, information that would
9 disclose or might lead to the disclosure of secret or
10 confidential information, codes, algorithms, programs, or
11 private keys intended to be used to create electronic or
12 digital signatures under the Electronic Commerce Security
13 Act.

14 (jj) Information contained in a local emergency energy
15 plan submitted to a municipality in accordance with a local
16 emergency energy plan ordinance that is adopted under
17 Section 11-21.5-5 of the Illinois Municipal Code.

18 (kk) Information and data concerning the distribution
19 of surcharge moneys collected and remitted by wireless
20 carriers under the Wireless Emergency Telephone Safety
21 Act.

22 (ll) Vulnerability assessments, security measures, and
23 response policies or plans that are designed to identify,
24 prevent, or respond to potential attacks upon a community's
25 population or systems, facilities, or installations, the
26 destruction or contamination of which would constitute a
27 clear and present danger to the health or safety of the
28 community, but only to the extent that disclosure could
29 reasonably be expected to jeopardize the effectiveness of
30 the measures or the safety of the personnel who implement
31 them or the public. Information exempt under this item may
32 include such things as details pertaining to the
33 mobilization or deployment of personnel or equipment, to
34 the operation of communication systems or protocols, or to
35 tactical operations.

36 (mm) Maps and other records regarding the location or

1 security of a utility's generation, transmission,
2 distribution, storage, gathering, treatment, or switching
3 facilities.

4 (nn) Law enforcement officer identification
5 information or driver identification information compiled
6 by a law enforcement agency or the Department of
7 Transportation under Section 11-212 of the Illinois
8 Vehicle Code.

9 (oo) Records and information provided to a residential
10 health care facility resident sexual assault and death
11 review team or the ~~Residential Health Care Facility
12 Resident Sexual Assault and Death Review Teams~~ Executive
13 Council under the Abuse Prevention Residential Health Care
14 Facility Resident Sexual Assault and Death Review Team Act.

15 (pp) Information provided to the predatory lending
16 database created pursuant to Article 3 of the Residential
17 Real Property Disclosure Act, except to the extent
18 authorized under that Article.

19 (qq) ~~(pp)~~ Defense budgets and petitions for
20 certification of compensation and expenses for court
21 appointed trial counsel as provided under Sections 10 and
22 15 of the Capital Crimes Litigation Act. This subsection
23 (qq) ~~(pp)~~ shall apply until the conclusion of the trial and
24 appeal of the case, even if the prosecution chooses not to
25 pursue the death penalty prior to trial or sentencing.

26 (2) This Section does not authorize withholding of
27 information or limit the availability of records to the public,
28 except as stated in this Section or otherwise provided in this
29 Act.

30 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
31 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
32 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
33 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised
34 8-29-05.)

35 Section 15. The Abuse Prevention Review Team Act is amended

1 by changing Sections 5, 15, 20, 25, and 40 and by adding
2 Sections 45 and 50 as follows:

3 (210 ILCS 28/5)

4 (Section scheduled to be repealed on July 1, 2006)

5 Sec. 5. State policy. The following statements are the
6 policy of this State:

7 (1) Every nursing home resident is entitled to live in
8 safety and decency and to receive competent and respectful
9 care that meets the requirements of State and federal law.

10 (2) Responding to sexual assaults of ~~on~~ nursing home
11 residents and to unnecessary nursing home resident deaths
12 is a State and a community responsibility.

13 (3) When a nursing home resident is sexually assaulted
14 or dies unnecessarily, the response by the State and the
15 community to the assault or death must include an accurate
16 and complete determination of the cause of the assault or
17 death and the development and implementation of measures to
18 prevent future assaults or deaths from similar causes. The
19 response may include court action, including prosecution
20 of persons who may be responsible for the assault or death
21 and proceedings to protect other residents of the facility
22 where the resident lived, and disciplinary action against
23 persons who failed to meet their professional
24 responsibilities to the resident.

25 (4) Professionals from disparate disciplines and
26 agencies who have responsibilities for nursing home
27 residents and expertise that can promote resident safety
28 and well-being should share their expertise and knowledge
29 so that the goals of determining the causes of sexual
30 assaults and unnecessary resident deaths, planning and
31 providing services to surviving residents, and preventing
32 future assaults and unnecessary deaths can be achieved.

33 (5) A greater understanding of the incidence and causes
34 of sexual assaults against nursing home residents and
35 unnecessary nursing home resident deaths is necessary if

1 the State is to prevent future assaults and unnecessary
2 deaths.

3 (6) Multi-disciplinary and multi-agency reviews of
4 sexual assaults against nursing home residents and
5 unnecessary nursing home resident deaths can assist the
6 State and counties in (i) investigating resident sexual
7 assaults and deaths, (ii) developing a greater
8 understanding of the incidence and causes of resident
9 sexual assault and deaths and the methods for preventing
10 those assaults and deaths, and (iii) identifying gaps in
11 services to nursing home residents.

12 (7) Access to information regarding assaulted and
13 deceased nursing home residents by multi-disciplinary and
14 multi-agency nursing home resident sexual assault and
15 death review teams is necessary for those teams to fulfill
16 ~~achieve~~ their purposes and duties.

17 (Source: P.A. 93-577, eff. 8-21-03.)

18 (210 ILCS 28/15)

19 (Section scheduled to be repealed on July 1, 2006)

20 Sec. 15. Residential health care facility resident sexual
21 assault and death review teams; establishment.

22 (a) The Director, in consultation with the Executive
23 Council and with law enforcement agencies and other
24 professionals who work in the field of investigating, treating,
25 or preventing nursing home resident abuse or neglect in ~~each of~~
26 ~~the Department's administrative regions of~~ the State, shall
27 appoint members to two ~~a~~ residential health care facility
28 resident sexual assault and death review teams ~~team in each~~
29 ~~such region outside Cook County and to at least one review team~~
30 ~~in Cook County.~~ The Director shall appoint more teams if the
31 Director or the existing teams determine that more teams are
32 necessary to achieve the purposes of this Act. An Executive
33 Council shall be organized no later than when at least 4 teams
34 are formed. The members of a team shall be appointed for 2-year
35 staggered terms and shall be eligible for reappointment upon

1 the expiration of their terms.

2 (b) Each review team shall consist of at least one member
3 from each of the following categories:

4 (1) Geriatrician or other physician knowledgeable
5 about nursing home resident abuse and neglect.

6 (2) Representative of the Department.

7 (3) State's Attorney or State's Attorney's
8 representative.

9 (4) Representative of a local law enforcement agency.

10 (5) Representative of the Illinois Attorney General.

11 (6) Psychologist or psychiatrist.

12 (7) Representative of a local health department.

13 (8) Representative of a social service or health care
14 agency that provides services to persons with mental
15 illness, in a program whose accreditation to provide such
16 services is recognized by the Office of Mental Health
17 within the Department of Human Services.

18 (9) Representative of a social service or health care
19 agency that provides services to persons with
20 developmental disabilities, in a program whose
21 accreditation to provide such services is recognized by the
22 Office of Developmental Disabilities within the Department
23 of Human Services.

24 (10) Coroner or forensic pathologist.

25 (11) Representative of the local sub-state ombudsman.

26 (12) Representative of a nursing home resident
27 advocacy organization.

28 (13) Representative of a local hospital, trauma
29 center, or provider of emergency medical services.

30 (14) Representative of an organization that represents
31 nursing homes.

32 Each review team may make recommendations to the Director
33 concerning additional appointments. Each review team member
34 must have demonstrated experience and an interest in
35 investigating, treating, or preventing nursing home resident
36 abuse or neglect.

1 (c) Each review team shall select a chairperson from among
2 its members. The chairperson shall also serve on the Illinois
3 Residential Health Care Facility Sexual Assault and Death
4 Review Teams Executive Council.

5 (Source: P.A. 93-577, eff. 8-21-03.)

6 (210 ILCS 28/20)

7 (Section scheduled to be repealed on July 1, 2006)

8 Sec. 20. Reviews of nursing home resident sexual assaults
9 and deaths.

10 (a) Every ~~reported~~ case of sexual assault of a nursing home
11 resident that the Department determined to be valid ~~is~~
12 ~~confirmed~~ shall be reviewed by the review team for the region
13 that has primary case management responsibility.

14 (b) Every death of a nursing home resident shall be
15 reviewed by the review team for the region that has primary
16 case management responsibility, if the deceased resident is one
17 of the following:

18 (1) A person whose death is reviewed by the Department
19 during any regulatory activity, whether or not there were
20 any federal or State violations ~~care the Department found~~
21 ~~violated federal or State standards in the 6 months~~
22 ~~preceding the resident's death.~~

23 (2) A person about whose care the Department received a
24 complaint alleging that the resident's care violated
25 federal or State standards so as to contribute to the
26 resident's death. ~~A person whose care was the subject of a~~
27 ~~complaint to the Department in the 30 days preceding the~~
28 ~~resident's death, or after the resident's death.~~

29 (3) A resident whose death is referred to the
30 Department for investigation by a local coroner, medical
31 examiner, or law enforcement agency.

32 A review team may, at its discretion, review other sudden,
33 unexpected, or unexplained nursing home resident deaths. The
34 Department shall bring such deaths to the attention of the
35 teams when it determines that doing so will help to achieve the

1 purposes of this Act.

2 (c) ~~(b)~~ A review team's purpose in conducting reviews of
3 resident sexual assaults and deaths is to do the following:

4 (1) Assist in determining the cause and manner of the
5 resident's assault or death, when requested.

6 (2) Evaluate means, if any, by which the assault or
7 death might have been prevented.

8 (3) Report its findings to the Director ~~appropriate~~
9 ~~agencies~~ and make recommendations that may help to reduce
10 the number of sexual assaults on and unnecessary deaths of
11 nursing home residents.

12 (4) Promote continuing education for professionals
13 involved in investigating, treating, and preventing
14 nursing home resident abuse and neglect as a means of
15 preventing sexual assaults and unnecessary deaths of
16 nursing home residents.

17 (5) Make specific recommendations to the Director
18 concerning the prevention of sexual assaults and
19 unnecessary deaths of nursing home residents and the
20 establishment of protocols for investigating resident
21 sexual assaults and deaths.

22 (d) ~~(e)~~ A review team must review the ~~a~~ sexual assault or
23 death cases submitted to it on a quarterly basis. The as soon
24 ~~as practicable and not later than 90 days following the~~
25 ~~completion by the Department of the investigation of the~~
26 ~~assault or death under the Nursing Home Care Act. When there~~
27 ~~has been no investigation by the Department, the review team~~
28 ~~must review a sexual assault or death within 90 days after~~
29 ~~obtaining the information necessary to complete the review from~~
30 ~~the coroner, pathologist, medical examiner, or law enforcement~~
31 ~~agency, depending on the nature of the case. A review team must~~
32 meet at least once in each calendar quarter if there are cases
33 to be reviewed. The Department shall forward cases pursuant to
34 subsections (a) and (b) of this Section within 120 days after
35 completion of the investigation.

36 (e) ~~(d)~~ Within 90 days after receiving recommendations made

1 by a review team under item (5) of subsection (c) ~~(b)~~, the
2 Director must review those recommendations and respond to the
3 review team. The Director shall implement recommendations as
4 feasible and appropriate and shall respond to the review team
5 in writing to explain the implementation or nonimplementation
6 of the recommendations.

7 (f) ~~(e)~~ In any instance when a review team does not operate
8 in accordance with established protocol, the Director, in
9 consultation and cooperation with the Executive Council, must
10 take any necessary actions to bring the review team into
11 compliance with the protocol.

12 (Source: P.A. 93-577, eff. 8-21-03.)

13 (210 ILCS 28/25)

14 (Section scheduled to be repealed on July 1, 2006)

15 Sec. 25. Review team access to information.

16 (a) The Department shall provide to a review team, on the
17 request of the review team chairperson, all records and
18 information in the Department's possession that are relevant to
19 the review team's review of a sexual assault or death described
20 in subsection (b) of Section 20, including records and
21 information concerning previous reports or investigations of
22 suspected abuse or neglect.

23 (b) A review team shall have access to all records and
24 information that are relevant to its review of a sexual assault
25 or death and in the possession of a State or local governmental
26 agency. These records and information include, without
27 limitation, death certificates, all relevant medical and
28 mental health records, records of law enforcement agency
29 investigations, records of coroner or medical examiner
30 investigations, records of the Department of Corrections
31 concerning a person's parole, records of a probation and court
32 services department, and records of a social services agency
33 that provided services to the resident.

34 (Source: P.A. 93-577, eff. 8-21-03.)

1 (210 ILCS 28/40)

2 (Section scheduled to be repealed on July 1, 2006)

3 Sec. 40. Executive Council.

4 (a) The Illinois Residential Health Care Facility Resident
5 Sexual Assault and Death Review Teams Executive Council,
6 consisting of the chairperson of each review team established
7 under Section 15, is the coordinating and oversight body for
8 residential health care facility resident sexual assault and
9 death review teams and activities in Illinois. The
10 vice-chairperson of a review team, as designated by the
11 chairperson, may serve as a back-up member or an alternate
12 member of the Executive Council, if the chairperson of the
13 review team is unavailable to serve on the Executive Council.
14 The Director may appoint to the Executive Council any
15 ex-officio members deemed necessary. Persons with expertise
16 needed by the Executive Council may be invited to meetings. The
17 Executive Council must select from its members a chairperson
18 and a vice-chairperson, each to serve a 2-year, renewable term.
19 The Executive Council must meet at least 4 times during each
20 calendar year if there is business to discuss.

21 (b) The Department must provide or arrange for the staff
22 support necessary for the review teams and Executive Council to
23 assist them in carrying ~~carry~~ out their ~~its~~ duties.

24 (c) The Executive Council has, but is not limited to, the
25 following duties:

26 (1) To request assistance from the Department as needed
27 ~~serve as the voice of review teams in Illinois~~.

28 (2) To consult with the Director concerning the
29 appointment, reappointment, and removal of review team
30 members.

31 (3) To ~~oversee the review teams in order to~~ ensure that
32 the teams' work is coordinated and in compliance with the
33 statutes and the operating protocol.

34 (4) To ensure that the data, results, findings, and
35 recommendations of the review teams are adequately used to
36 make any necessary changes in the policies, procedures, and

1 statutes in order to protect nursing home residents in a
2 timely manner.

3 (5) To collaborate with ~~the General Assembly,~~ the
4 Department, ~~and others~~ in order to develop any legislation
5 needed to prevent nursing home resident sexual assaults and
6 unnecessary deaths and to protect nursing home residents.

7 (6) To assist in the development of an ~~quarterly and~~
8 annual report ~~reports~~ based on the work and the findings of
9 the review teams.

10 (7) To ensure that the review teams' review processes
11 are standardized in order to convey data, findings, and
12 recommendations in a usable format.

13 (8) To serve as a link with other review teams
14 throughout the country and to participate in national
15 review team activities.

16 (9) To provide for training ~~develop an annual statewide~~
17 ~~symposium~~ to update the knowledge and skills of review team
18 members and to promote the exchange of information between
19 review teams.

20 (10) To provide the review teams with the most current
21 information and practices concerning nursing home resident
22 sexual assault and unnecessary death review and related
23 topics.

24 (11) To perform any other functions necessary to
25 enhance the capability of the review teams to reduce and
26 prevent sexual assaults and unnecessary deaths of nursing
27 home residents.

28 (d) Until an Executive Council is formed, the Department
29 shall assist the review teams in performing the duties
30 described in subsection (c).

31 (Source: P.A. 93-577, eff. 8-21-03.)

32 (210 ILCS 28/45 new)

33 Sec. 45. Department's annual report. The Department shall
34 include in its annual Long-Term Care Report to the General
35 Assembly a report of the activities of the review teams and

1 Executive Council, the results of the review teams' findings,
2 recommendations made to the Department by the review teams and
3 the Executive Council, and, as applicable, either (i) the
4 implementation of the recommendations or (ii) the reasons the
5 recommendations were not implemented.

6 (210 ILCS 28/50 new)

7 Sec. 50. Funding. Notwithstanding any other provision of
8 law, to the extent permitted by federal law, the Department
9 shall use moneys from fines paid by facilities licensed under
10 the Nursing Home Care Act for violating requirements for
11 certification under Titles XVIII and XIX of the Social Security
12 Act to implement the provisions of this Act. The Department
13 shall use moneys deposited in the Long Term Care
14 Monitor/Receiver Fund to pay the costs of implementing this Act
15 that cannot be met by the use of federal civil monetary
16 penalties.

17 (210 ILCS 28/85 rep.)

18 Section 16. The Abuse Prevention Review Team Act is amended
19 by repealing Section 85.

20 Section 20. The Nursing Home Care Act is amended by
21 changing Section 3-103 as follows:

22 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

23 Sec. 3-103. The procedure for obtaining a valid license
24 shall be as follows:

25 (1) Application to operate a facility shall be made to the
26 Department on forms furnished by the Department.

27 (2) All license applications shall be accompanied with an
28 application fee. The fee for an annual license shall be \$995.
29 Facilities that pay a fee or assessment pursuant to Article V-C
30 of the Illinois Public Aid Code shall be exempt from the
31 license fee imposed under this item (2). The fee for a 2-year
32 license shall be double the fee for the annual license set

1 forth in the preceding sentence. The fees collected shall be
2 deposited with the State Treasurer into the Long Term Care
3 Monitor/Receiver Fund, which has been created as a special fund
4 in the State treasury. This special fund is to be used by the
5 Department for expenses related to the appointment of monitors
6 and receivers as contained in Sections 3-501 through 3-517 of
7 this Act and for implementation of the Abuse Prevention Review
8 Team Act. At the end of each fiscal year, any funds in excess
9 of \$1,000,000 held in the Long Term Care Monitor/Receiver Fund
10 shall be deposited in the State's General Revenue Fund. The
11 application shall be under oath and the submission of false or
12 misleading information shall be a Class A misdemeanor. The
13 application shall contain the following information:

14 (a) The name and address of the applicant if an
15 individual, and if a firm, partnership, or association, of
16 every member thereof, and in the case of a corporation, the
17 name and address thereof and of its officers and its
18 registered agent, and in the case of a unit of local
19 government, the name and address of its chief executive
20 officer;

21 (b) The name and location of the facility for which a
22 license is sought;

23 (c) The name of the person or persons under whose
24 management or supervision the facility will be conducted;

25 (d) The number and type of residents for which
26 maintenance, personal care, or nursing is to be provided;
27 and

28 (e) Such information relating to the number,
29 experience, and training of the employees of the facility,
30 any management agreements for the operation of the
31 facility, and of the moral character of the applicant and
32 employees as the Department may deem necessary.

33 (3) Each initial application shall be accompanied by a
34 financial statement setting forth the financial condition of
35 the applicant and by a statement from the unit of local
36 government having zoning jurisdiction over the facility's

1 location stating that the location of the facility is not in
2 violation of a zoning ordinance. An initial application for a
3 new facility shall be accompanied by a permit as required by
4 the "Illinois Health Facilities Planning Act". After the
5 application is approved, the applicant shall advise the
6 Department every 6 months of any changes in the information
7 originally provided in the application.

8 (4) Other information necessary to determine the identity
9 and qualifications of an applicant to operate a facility in
10 accordance with this Act shall be included in the application
11 as required by the Department in regulations.

12 (Source: P.A. 93-32, eff. 7-1-03; 93-841, eff. 7-30-04.)

13 Section 25. The Health Care Worker Background Check Act is
14 amended by changing Section 70 as follows:

15 (225 ILCS 46/70)

16 Sec. 70. Centers for Medicare and Medicaid Services (CMMS)
17 grant.

18 (a) In this Section:

19 "Centers for Medicare and Medicaid Services (CMMS) grant"
20 means the grant awarded to and distributed by the Department of
21 Public Health to enhance the conduct of criminal history
22 records checks of certain health care employees. The CMMS grant
23 is authorized by Section 307 of the federal Medicare
24 Prescription Drug, Improvement, and Modernization Act of 2003,
25 which establishes the framework for a program to evaluate
26 national and state background checks on prospective employees
27 with direct access to patients of long-term care facilities or
28 providers.

29 "Selected health care employer" means any of the following
30 selected to participate in the CMMS grant:

31 (1) a community living facility as defined in the
32 Community Living Facility Act;

33 (2) a long-term care facility as defined in the Nursing
34 Home Care Act;

1 (3) a home health agency as defined in the Home Health
2 Agency Licensing Act;

3 (4) a full hospice as defined in the Hospice Licensing
4 Act;

5 (5) an establishment licensed under the Assisted
6 Living and Shared Housing Act;

7 (6) a supportive living facility as defined in the
8 Illinois Public Aid Code;

9 (7) a day training program certified by the Department
10 of Human Services; ~~or~~

11 (8) a community integrated living arrangement operated
12 by a community mental health and developmental service
13 agency as defined in the Community Integrated Living
14 Arrangements Licensing and Certification Act; or

15 (9) a long-term care hospital or hospital with swing
16 beds.

17 (b) Selected health care employers shall be phased in to
18 participate in the CMMS grant between January 1, 2006 and
19 January 1, 2007, as prescribed by the Department of Public
20 Health by rule.

21 (c) With regards to individuals hired on or after January
22 1, 2006 who have direct access to residents, patients, or
23 clients of the selected health care employer, selected health
24 care employers must comply with Section 25 of this Act.

25 "Individuals who have direct access" includes, but is not
26 limited to, (i) direct care workers as described in subsection
27 (a) of Section 25; (ii) individuals licensed by the Department
28 of Financial and Professional Regulation, such as nurses,
29 social workers, physical therapists, occupational therapists,
30 and pharmacists; (iii) individuals who provide services on
31 site, through contract; and (iv) non-direct care workers, such
32 as those who work in environmental services, food service, and
33 administration.

34 "Individuals who have direct access" does not include
35 physicians or volunteers.

36 The Department of Public Health may further define

1 "individuals who have direct access" by rule.

2 (d) Each applicant seeking employment in a position
3 described in subsection (c) of this Section with a selected
4 health care employer shall, as a condition of employment, have
5 his or her fingerprints submitted to the Department of State
6 Police in an electronic format that complies with the form and
7 manner for requesting and furnishing criminal history record
8 information by the Department of State Police and the Federal
9 Bureau of Investigation criminal history record databases now
10 and hereafter filed. The Department of State Police shall
11 forward the fingerprints to the Federal Bureau of Investigation
12 for a national criminal history records check. The Department
13 of State Police shall charge a fee for conducting the criminal
14 history records check, which shall not exceed the actual cost
15 of the records check and shall be deposited into the State
16 Police Services Fund. The Department of State Police shall
17 furnish, pursuant to positive identification, records of
18 Illinois convictions to the Department of Public Health.

19 (e) A selected health care employer who makes a conditional
20 offer of employment to an applicant shall:

21 (1) ensure that the applicant has complied with the
22 fingerprinting requirements of this Section;

23 (2) complete documentation relating to any criminal
24 history record, as revealed by the applicant, as prescribed
25 by rule by the Department of Public Health;

26 (3) complete documentation of the applicant's personal
27 identifiers as prescribed by rule by the Department of
28 Public Health; and

29 (4) provide supervision, as prescribed by rule by the
30 licensing agency, if the applicant is hired and allowed to
31 work prior to the results of the criminal history records
32 check being obtained.

33 (f) A selected health care employer having actual knowledge
34 from a source that an individual with direct access to a
35 resident, patient, or client has been convicted of committing
36 or attempting to commit one of the offenses enumerated in

1 Section 25 of this Act shall contact the licensing agency or
2 follow other instructions as prescribed by administrative
3 rule.

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

8 (h) This Section shall be inapplicable upon the conclusion
9 of the CMMS grant.

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

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