



Sen. William Delgado

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09600SB3021sam001

LRB096 17653 KTG 36163 a

1 AMENDMENT TO SENATE BILL 3021

2 AMENDMENT NO. _____. Amend Senate Bill 3021 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The MR/DD Community Care Act is amended by
5 changing Sections 1-101.05, 3-305, 3-306, and 3-308 as follows:

6 (210 ILCS 47/1-101.05)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 1-101.05. Prior law.

10 (a) This Act provides for licensure of intermediate care
11 facilities for the developmentally disabled and long-term care
12 for under age 22 facilities under this Act instead of under the
13 Nursing Home Care Act. On and after the effective date of this
14 Act, those facilities shall be governed by this Act instead of
15 the Nursing Home Care Act.

16 (b) (Blank) ~~If any other Act of the General Assembly~~

1 ~~changes, adds, or repeals a provision of the Nursing Home Care~~
2 ~~Act that is the same as or substantially similar to a provision~~
3 ~~of this Act, then that change, addition, or repeal in the~~
4 ~~Nursing Home Care Act shall be construed together with this~~
5 ~~Act.~~

6 (c) Nothing in this Act affects the validity or effect of
7 any finding, decision, or action made or taken by the
8 Department or the Director under the Nursing Home Care Act
9 before the effective date of this Act with respect to a
10 facility subject to licensure under this Act. That finding,
11 decision, or action shall continue to apply to the facility on
12 and after the effective date of this Act. Any finding,
13 decision, or action with respect to the facility made or taken
14 on or after the effective date of this Act shall be made or
15 taken as provided in this Act.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/3-305)

18 (This Section may contain text from a Public Act with a
19 delayed effective date)

20 Sec. 3-305. Penalties or fines. The license of a facility
21 which is in violation of this Act or any rule adopted
22 thereunder may be subject to the penalties or fines levied by
23 the Department as specified in this Section.

24 (1) Unless a greater penalty or fine is allowed under
25 subsection (3), a licensee who commits a Type "A" violation

1 as defined in Section 1-129 is automatically issued a
2 conditional license for a period of 6 months to coincide
3 with an acceptable plan of correction and assessed a fine
4 computed at a rate of \$5.00 per resident in the facility
5 plus 20 cents per resident for each day of the violation,
6 commencing on the date a notice of the violation is served
7 under Section 3-301 and ending on the date the violation is
8 corrected, or a fine not greater than \$50 per licensed bed
9 ~~of not less than \$5,000~~, or when death, serious mental or
10 physical harm, permanent disability, or disfigurement
11 results, a fine of not greater than \$100 per licensed bed
12 ~~not less than \$10,000~~, whichever is greater.

13 (2) A licensee who commits a Type "B" violation or who
14 is issued an administrative warning for a violation of
15 Sections 3-401 through 3-413 or the rules promulgated
16 thereunder is subject to a penalty computed at a rate of \$3
17 per resident in the facility, plus 15 cents per resident
18 for each day of the violation, commencing on the date a
19 notice of the violation is served under Section 3-301 and
20 ending on the date the violation is corrected, or a fine
21 not less than \$5 per licensed bed ~~\$500~~, whichever is
22 greater. Such fine shall be assessed on the date of notice
23 of the violation and shall be suspended for violations that
24 continue after such date upon completion of a plan of
25 correction in accordance with Section 3-308 in relation to
26 the assessment of fines and correction. Failure to correct

1 such violation within the time period approved under a plan
2 of correction shall result in a fine and conditional
3 license as provided under subsection (5).

4 (3) A licensee who commits a Type "A" violation as
5 defined in Section 1-129 which continues beyond the time
6 specified in paragraph (a) of Section 3-303 ~~3-303~~ which is
7 cited as a repeat violation shall have its license revoked
8 and shall be assessed a fine of 3 times the fine computed
9 per resident per day under subsection (1).

10 (4) A licensee who fails to satisfactorily comply with
11 an accepted plan of correction for a Type "B" violation or
12 an administrative warning issued pursuant to Sections
13 3-401 through 3-413 or the rules promulgated thereunder
14 shall be automatically issued a conditional license for a
15 period of not less than 6 months. A second or subsequent
16 acceptable plan of correction shall be filed. A fine shall
17 be assessed in accordance with subsection (2) when cited
18 for the repeat violation. This fine shall be computed for
19 all days of the violation, including the duration of the
20 first plan of correction compliance time.

21 (5) For the purpose of computing a penalty under
22 subsections (2) through (4), the number of residents per
23 day shall be based on the average number of residents in
24 the facility during the 30 days preceding the discovery of
25 the violation.

26 (6) When the Department finds that a provision of

1 Article II has been violated with regard to a particular
2 resident, the Department shall issue an order requiring the
3 facility to reimburse the resident for injuries incurred,
4 or \$100, whichever is greater. In the case of a violation
5 involving any action other than theft of money belonging to
6 a resident, reimbursement shall be ordered only if a
7 provision of Article II has been violated with regard to
8 that or any other resident of the facility within the 2
9 years immediately preceding the violation in question.

10 (7) For purposes of assessing fines under this Section,
11 a repeat violation shall be a violation which has been
12 cited during one inspection of the facility for which an
13 accepted plan of correction was not complied with. A repeat
14 violation shall not be a new citation of the same rule,
15 unless the licensee is not substantially addressing the
16 issue routinely throughout the facility.

17 (Source: P.A. 96-339, eff. 7-1-10; revised 11-3-09.)

18 (210 ILCS 47/3-306)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 3-306. Factors to be considered in determining
22 penalty. In determining whether a penalty is to be imposed and
23 in fixing the amount of the penalty to be imposed, if any, for
24 a violation, the Director shall consider the following factors:

25 (1) The gravity of the violation, including the

1 probability that death or serious physical or mental harm
2 to a resident will result or has resulted; the severity of
3 the actual or potential harm, and the extent to which the
4 provisions of the applicable statutes or regulations were
5 violated;

6 (2) The reasonable diligence exercised by the licensee
7 and efforts to correct violations;

8 (3) Any previous violations committed by the licensee;
9 ~~and~~

10 (4) The financial benefit to the facility of committing
11 or continuing the violation; and -

12 (5) The average occupancy of the facility calculated
13 over the past 3 months.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-308)

16 (This Section may contain text from a Public Act with a
17 delayed effective date)

18 Sec. 3-308. Time of assessment; plan of correction. In the
19 case of a Type "A" violation, a penalty may be assessed from
20 the date on which the violation is discovered. In the case of a
21 Type "B" ~~or Type "C"~~ violation or an administrative warning
22 issued pursuant to Sections 3-401 through 3-413 or the rules
23 promulgated thereunder, the facility shall submit a plan of
24 correction as provided in Section 3-303. In the case of a Type
25 "B" violation or an administrative warning issued pursuant to

1 Sections 3-401 through 3-413 or the rules promulgated
2 thereunder, a penalty shall be assessed on the date of notice
3 of the violation, but the Director may reduce the amount or
4 waive such payment for any of the following reasons:

5 (a) The facility submits a true report of correction within
6 10 days;

7 (b) The facility submits a plan of correction within 10
8 days and subsequently submits a true report of correction
9 within 15 days thereafter;

10 (c) The facility submits a plan of correction within 10
11 days which provides for a correction time that is less than or
12 equal to 30 days and the Department approves such plan; or

13 (d) The facility submits a plan of correction for
14 violations involving substantial capital improvements which
15 provides for correction within the initial 90 day limit
16 provided under Section 3-303. The Director shall consider the
17 following factors in determinations to reduce or waive such
18 penalties:

19 (1) The violation has not caused actual harm to a
20 resident;

21 (2) The facility has made a diligent effort to correct
22 the violation and to prevent its recurrence;

23 (3) The facility has no record of a pervasive pattern
24 of the same or similar violations; and

25 (4) The facility has a record of substantial compliance
26 with this Act and the regulations promulgated hereunder.

1 ~~If a plan of correction is approved and carried out for a~~
2 ~~Type "C" violation, the fine provided under Section 3-305 shall~~
3 ~~be suspended for the time period specified in the approved plan~~
4 ~~of correction.~~ If a plan of correction is approved and carried
5 out for a Type "B" violation or an administrative warning
6 issued pursuant to Sections 3-401 through 3-413 or the rules
7 promulgated thereunder, with respect to a violation that
8 continues after the date of notice of violation, the fine
9 provided under Section 3-305 shall be suspended for the time
10 period specified in the approved plan of correction.

11 If a good faith plan of correction is not received within
12 the time provided by Section 3-303, a penalty may be assessed
13 from the date of the notice of the Type "B" ~~or "C"~~ violation or
14 an administrative warning issued pursuant to Sections 3-401
15 through 3-413 or the rules promulgated thereunder served under
16 Section 3-301 until the date of the receipt of a good faith
17 plan of correction, or until the date the violation is
18 corrected, whichever is earlier. If a violation is not
19 corrected within the time specified by an approved plan of
20 correction or any lawful extension thereof, a penalty may be
21 assessed from the date of notice of the violation, until the
22 date the violation is corrected.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 Section 99. Effective date. This Act takes effect July 1,
25 2010."