



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3400

Introduced 2/10/2010, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

15 ILCS 205/6.7 new
20 ILCS 105/4.03 from Ch. 23, par. 6104.03
20 ILCS 105/4.04 rep.
225 ILCS 46/15
320 ILCS 42/35
755 ILCS 45/2-7.5

Amends the Attorney General Act and the Illinois Act on the Aging. Transfers provisions concerning the Office of State Long Term Care Ombudsman from the Department on Aging to the Office of the Attorney General. Provides for the transfer of employees, records, unexpended funds, and other matters. Amends various other Acts to make conforming changes.

LRB096 20395 DRJ 36041 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Attorney General Act is amended by adding
5 Section 6.7 as follows:

6 (15 ILCS 205/6.7 new)

7 Sec. 6.7. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Attorney General
9 shall establish a Long Term Care Ombudsman Program, through the
10 Office of State Long Term Care Ombudsman ("the Office"), in
11 accordance with the provisions of the Older Americans Act of
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104
16 of the Nursing Home Care Act, as now or hereafter amended;
17 that is, it means the right to:

18 (i) Enter any long term care facility or assisted
19 living or shared housing establishment or supportive
20 living facility;

21 (ii) Communicate privately and without restriction
22 with any resident, regardless of age, who consents to
23 the communication;

1 (iii) Seek consent to communicate privately and
2 without restriction with any resident, regardless of
3 age;

4 (iv) Inspect the clinical and other records of a
5 resident, regardless of age, with the express written
6 consent of the resident;

7 (v) Observe all areas of the long term care
8 facility or supportive living facilities, assisted
9 living or shared housing establishment except the
10 living area of any resident who protests the
11 observation.

12 (2) "Long Term Care Facility" means (i) any facility as
13 defined by Section 1-113 of the Nursing Home Care Act, as
14 now or hereafter amended; and (ii) any skilled nursing
15 facility or a nursing facility which meets the requirements
16 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
17 (b), (c), and (d) of the Social Security Act, as now or
18 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
19 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

20 (2.5) "Assisted living establishment" and "shared
21 housing establishment" have the meanings given those terms
22 in Section 10 of the Assisted Living and Shared Housing
23 Act.

24 (2.7) "Supportive living facility" means a facility
25 established under Section 5-5.01a of the Illinois Public
26 Aid Code.

1 (3) "State Long Term Care Ombudsman" means any person
2 employed by the Department to fulfill the requirements of
3 the Office of State Long Term Care Ombudsman as required
4 under the Older Americans Act of 1965, as now or hereafter
5 amended, and Departmental policy.

6 (3.1) "Ombudsman" means any designated representative
7 of a regional long term care ombudsman program; provided
8 that the representative, whether he is paid for or
9 volunteers his ombudsman services, shall be qualified and
10 designated by the Office to perform the duties of an
11 ombudsman as specified by the Department in rules and in
12 accordance with the provisions of the Older Americans Act
13 of 1965, as now or hereafter amended.

14 (c) Ombudsman; rules. The Office of State Long Term Care
15 Ombudsman shall be composed of at least one full-time ombudsman
16 and shall include a system of designated regional long term
17 care ombudsman programs. Each regional program shall be
18 designated by the State Long Term Care Ombudsman as a
19 subdivision of the Office and any representative of a regional
20 program shall be treated as a representative of the Office.

21 The Attorney General, in consultation with the Office,
22 shall promulgate administrative rules in accordance with the
23 provisions of the Older Americans Act of 1965, as now or
24 hereafter amended, to establish the responsibilities of the
25 Attorney General and the Office of State Long Term Care
26 Ombudsman and the designated regional Ombudsman programs. The

1 administrative rules shall include the responsibility of the
2 Office and designated regional programs to investigate and
3 resolve complaints made by or on behalf of residents of long
4 term care facilities, supportive living facilities, and
5 assisted living and shared housing establishments, including
6 the option to serve residents under the age of 60, relating to
7 actions, inaction, or decisions of providers, or their
8 representatives, of long term care facilities, of supported
9 living facilities, of assisted living and shared housing
10 establishments, of public agencies, or of social services
11 agencies, which may adversely affect the health, safety,
12 welfare, or rights of such residents. The Office and designated
13 regional programs may represent all residents, but are not
14 required by this Section to represent persons under 60 years of
15 age, except to the extent required by federal law. When
16 necessary and appropriate, representatives of the Office shall
17 refer complaints to the appropriate regulatory State agency.
18 The Attorney General, in consultation with the Office, shall
19 cooperate with the Department of Human Services and other State
20 agencies in providing information and training to designated
21 regional long term care ombudsman programs about the
22 appropriate assessment and treatment (including information
23 about appropriate supportive services, treatment options, and
24 assessment of rehabilitation potential) of the residents they
25 serve, including children, persons with mental illness (other
26 than Alzheimer's disease and related disorders), and persons

1 with developmental disabilities.

2 The State Long Term Care Ombudsman and all other ombudsmen,
3 as defined in paragraph (3.1) of subsection (b), must submit to
4 background checks under the Health Care Worker Background Check
5 Act and receive training, as prescribed by the Illinois
6 Department on Aging, before visiting facilities. The training
7 must include information specific to assisted living
8 establishments, supportive living facilities, and shared
9 housing establishments and to the rights of residents
10 guaranteed under the corresponding Acts and administrative
11 rules.

12 (c-5) Consumer Choice Information Reports. The Office
13 shall:

14 (1) In collaboration with the Attorney General, create
15 a Consumer Choice Information Report form to be completed
16 by all licensed long term care facilities to aid
17 Illinoisans and their families in making informed choices
18 about long term care. The Office shall create a Consumer
19 Choice Information Report for each type of licensed long
20 term care facility.

21 (2) Develop a database of Consumer Choice Information
22 Reports completed by licensed long term care facilities
23 that includes information in the following consumer
24 categories:

25 (A) Medical Care, Services, and Treatment.

26 (B) Special Services and Amenities.

1 (C) Staffing.

2 (D) Facility Statistics and Resident Demographics.

3 (E) Ownership and Administration.

4 (F) Safety and Security.

5 (G) Meals and Nutrition.

6 (H) Rooms, Furnishings, and Equipment.

7 (I) Family, Volunteer, and Visitation Provisions.

8 (3) Make this information accessible to the public,
9 including on the Internet by means of a hyperlink labeled
10 "Resident's Right to Know" on the Office's World Wide Web
11 home page.

12 (4) Have the authority, with the Attorney General, to
13 verify that information provided by a facility is accurate.

14 (5) Request a new report from any licensed facility
15 whenever it deems necessary.

16 (d) Access and visitation rights.

17 (1) In accordance with subparagraphs (A) and (E) of
18 paragraph (3) of subsection (c) of Section 1819 and
19 subparagraphs (A) and (E) of paragraph (3) of subsection
20 (c) of Section 1919 of the Social Security Act, as now or
21 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
22 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
23 Older Americans Act of 1965, as now or hereafter amended
24 (42 U.S.C. 3058f), a long term care facility, supportive
25 living facility, assisted living establishment, and shared
26 housing establishment must:

1 (i) permit immediate access to any resident,
2 regardless of age, by a designated ombudsman; and

3 (ii) permit representatives of the Office, with
4 the permission of the resident's legal representative
5 or legal guardian, to examine a resident's clinical and
6 other records, regardless of the age of the resident,
7 and if a resident is unable to consent to such review,
8 and has no legal guardian, permit representatives of
9 the Office appropriate access, as defined by the
10 Attorney General, in consultation with the Office, in
11 administrative rules, to the resident's records.

12 (2) Each long term care facility, supportive living
13 facility, assisted living establishment, and shared
14 housing establishment shall display, in multiple,
15 conspicuous public places within the facility accessible
16 to both visitors and residents and in an easily readable
17 format, the address and phone number of the Office of the
18 Long Term Care Ombudsman, in a manner prescribed by the
19 Office.

20 (e) Immunity. An ombudsman or any representative of the
21 Office participating in the good faith performance of his or
22 her official duties shall have immunity from any liability
23 (civil, criminal or otherwise) in any proceedings (civil,
24 criminal or otherwise) brought as a consequence of the
25 performance of his official duties.

26 (f) Petty offenses.

1 (1) No person shall:

2 (i) Intentionally prevent, interfere with, or
3 attempt to impede in any way any representative of the
4 Office in the performance of his official duties under
5 this Act and the Older Americans Act of 1965; or

6 (ii) Intentionally retaliate, discriminate
7 against, or effect reprisals against any long term care
8 facility resident or employee for contacting or
9 providing information to any representative of the
10 Office.

11 (2) A violation of this Section is a petty offense,
12 punishable by a fine not to exceed \$501.

13 (3) The Attorney General, in consultation with the
14 Office, shall notify the State's Attorney of the county in
15 which the long term care facility, supportive living
16 facility, or assisted living or shared housing
17 establishment is located of any violations of this Section.

18 (g) Confidentiality of records and identities. The
19 Attorney General shall establish procedures for the disclosure
20 by the State Ombudsman or the regional ombudsmen entities of
21 files maintained by the program. The procedures shall provide
22 that the files and records may be disclosed only at the
23 discretion of the State Long Term Care Ombudsman or the person
24 designated by the State Ombudsman to disclose the files and
25 records, and the procedures shall prohibit the disclosure of
26 the identity of any complainant, resident, witness, or employee

1 of a long term care provider unless:

2 (1) the complainant, resident, witness, or employee of
3 a long term care provider or his or her legal
4 representative consents to the disclosure and the consent
5 is in writing;

6 (2) the complainant, resident, witness, or employee of
7 a long term care provider gives consent orally; and the
8 consent is documented contemporaneously in writing in
9 accordance with such requirements as the Attorney General
10 shall establish; or

11 (3) the disclosure is required by court order.

12 (h) Legal representation. The Attorney General shall
13 provide legal representation to any representative of the
14 Office against whom suit or other legal action is brought in
15 connection with the performance of the representative's
16 official duties, in accordance with the State Employee
17 Indemnification Act.

18 (i) Treatment by prayer and spiritual means. Nothing in
19 this Act shall be construed to authorize or require the medical
20 supervision, regulation or control of remedial care or
21 treatment of any resident in a long term care facility operated
22 exclusively by and for members or adherents of any church or
23 religious denomination the tenets and practices of which
24 include reliance solely upon spiritual means through prayer for
25 healing.

26 (j) The Long Term Care Ombudsman Fund, a special fund in

1 the State treasury, shall receive moneys for the express
2 purposes of this Section. All interest earned on moneys in the
3 fund shall be credited to the fund. Moneys contained in the
4 fund shall be used to support the purposes of this Section.

5 (k) Transfer of functions and powers.

6 (1) Transfer. On the effective date of this amendatory
7 Act of the 96th General Assembly, all functions performed
8 by the Office of State Long Term Care Ombudsman within the
9 Department on Aging, together with all of the powers,
10 duties, rights, and responsibilities of the Office
11 relating to those functions, are transferred from the
12 Department on Aging to the Office of the Attorney General.

13 The Department on Aging and the Office of the Attorney
14 General shall cooperate to ensure that the transfer of
15 functions is completed as soon as practical.

16 (2) Effect of transfer. Neither the functions of the
17 Office of State Long Term Care Ombudsman, nor the powers,
18 duties, rights, and responsibilities relating to those
19 functions, that are transferred from the Department on
20 Aging to the Office of the Attorney General under this
21 subsection are affected by this amendatory Act of the 96th
22 General Assembly, except that all such functions, powers,
23 duties, rights, and responsibilities shall be performed or
24 exercised within the Office of the Attorney General on and
25 after the effective date of this amendatory Act of the 96th
26 General Assembly.

1 (3) Personnel transferred. The status and rights of the
2 employees in the Department on Aging engaged in the
3 performance of functions relating to the Office of State
4 Long Term Care Ombudsman shall not be affected by the
5 transfer of those functions from the Department on Aging to
6 the Office of the Attorney General under this subsection.
7 The rights of those employees as derived from the State of
8 Illinois and its agencies under the Personnel Code, the
9 applicable collective bargaining agreements, or any
10 pension, retirement, or annuity plan shall not be affected
11 by this subsection. Personnel employed by the Department on
12 Aging who are affected by this subsection shall continue
13 their service within the Office of the Attorney General.

14 (4) Books and records transferred. All books, records,
15 papers, documents, contracts, and pending business
16 pertaining to the Office of State Long Term Care Ombudsman,
17 including but not limited to material in electronic or
18 magnetic format, shall be transferred to the Office of the
19 Attorney General. The transfer of that information shall
20 not, however, violate any applicable confidentiality
21 constraints.

22 (5) Unexpended moneys transferred. All unexpended
23 appropriation balances and other funds otherwise available
24 to the Department on Aging for use in connection with the
25 Office of State Long Term Care Ombudsman shall be
26 transferred and made available to the Office of the

1 Attorney General for use in connection with the Office of
2 State Long Term Care Ombudsman.

3 (6) Exercise of transferred powers; savings
4 provisions. The powers, duties, rights, and
5 responsibilities relating to the Office of State Long Term
6 Care Ombudsman transferred from the Department on Aging to
7 the Office of the Attorney General under this subsection
8 are vested in and shall be exercised by the Office of the
9 Attorney General. Each act done in exercise of those
10 powers, duties, rights, and responsibilities shall have
11 the same legal effect as if done by the Department on Aging
12 or its divisions, officers, or employees.

13 (7) Officers and others; duties; penalties. Every
14 employee, agent, or officer of the Office of the Attorney
15 General is subject to the same obligations and duties, and
16 has the same rights, as are prescribed by law in connection
17 with the exercise of any power, duty, right, or
18 responsibility transferred under this subsection.

19 Every employee, agent, or officer of the Office of the
20 Attorney General is subject to the same penalty or
21 penalties, civil or criminal, as are prescribed by law for
22 the same offense by any employee, agent, or officer whose
23 powers, duties, rights, or responsibilities are
24 transferred under this subsection.

25 (8) Reports, notices, or papers. Whenever reports or
26 notices are required to be made or given or papers or

1 documents furnished or served by any person to or upon the
2 Department on Aging in connection with any of the functions
3 relating to the Office of State Long Term Care Ombudsman,
4 the same shall be made, given, furnished, or served in the
5 same manner to or upon the Office of the Attorney General.

6 (9) Acts and actions unaffected by transfer. This
7 subsection does not affect any act completed, ratified, or
8 canceled, or any right occurring or established, before the
9 effective date of this amendatory Act of the 96th General
10 Assembly in connection with any function transferred under
11 this subsection. This subsection does not affect any action
12 or proceeding had or commenced before the effective date of
13 this amendatory Act of the 96th General Assembly in an
14 administrative, civil, or criminal cause regarding any
15 function transferred under this subsection, but any such
16 action or proceeding may be continued by the Office of the
17 Attorney General.

18 (10) For the purposes of the Successor Agency Act, the
19 Office of the Attorney General is declared to be the
20 successor agency of the Department on Aging, but only with
21 respect to the functions that are transferred to the Office
22 of the Attorney General under this subsection.

23 Section 10. The Illinois Act on the Aging is amended by
24 changing Section 4.03 as follows:

1 (20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

2 Sec. 4.03. The Department on Aging, in cooperation with the
3 Department of Human Services and any other appropriate State,
4 local or federal agency, shall, without regard to income
5 guidelines, establish a nursing home prescreening program to
6 determine whether Alzheimer's Disease and related disorders
7 victims, and persons who are deemed as blind or disabled as
8 defined by the Social Security Act and who are in need of long
9 term care, may be satisfactorily cared for in their homes
10 through the use of home and community based services.
11 Responsibility for prescreening shall be vested with case
12 coordination units. Prescreening shall occur: (i) when
13 hospital discharge planners have advised the case coordination
14 unit of the imminent risk of nursing home placement of a
15 patient who meets the above criteria and in advance of
16 discharge of the patient; or (ii) when a case coordination unit
17 has been advised of the imminent risk of nursing home placement
18 of an individual in the community. The individual who is
19 prescreened shall be informed of all appropriate options,
20 including placement in a nursing home and the availability of
21 in-home and community-based services and shall be advised of
22 her or his right to refuse nursing home, in-home,
23 community-based, or all services. Case coordination units
24 under contract with the Department may charge a fee for the
25 prescreening provided under this Section and the fee shall be
26 no greater than the cost of such services to the case

1 coordination unit. At the time of each prescreening, case
2 coordination units shall provide information regarding the
3 Office of State Long Term Care Ombudsman's Residents Right to
4 Know database as authorized in subsection (c-5) of Section 6.7
5 of the Attorney General Act 4.04.

6 (Source: P.A. 95-80, eff. 8-13-07; 95-823, eff. 1-1-09; 96-328,
7 eff. 8-11-09.)

8 (20 ILCS 105/4.04 rep.)

9 Section 15. The Illinois Act on the Aging is amended by
10 repealing Section 4.04.

11 Section 20. The Health Care Worker Background Check Act is
12 amended by changing Section 15 as follows:

13 (225 ILCS 46/15)

14 (Text of Section before amendment by P.A. 96-339)

15 Sec. 15. Definitions. In this Act:

16 "Applicant" means an individual seeking employment with a
17 health care employer who has received a bona fide conditional
18 offer of employment.

19 "Conditional offer of employment" means a bona fide offer
20 of employment by a health care employer to an applicant, which
21 is contingent upon the receipt of a report from the Department
22 of Public Health indicating that the applicant does not have a
23 record of conviction of any of the criminal offenses enumerated

1 in Section 25.

2 "Direct care" means the provision of nursing care or
3 assistance with feeding, dressing, movement, bathing,
4 toileting, or other personal needs, including home services as
5 defined in the Home Health, Home Services, and Home Nursing
6 Agency Licensing Act. The entity responsible for inspecting and
7 licensing, certifying, or registering the health care employer
8 may, by administrative rule, prescribe guidelines for
9 interpreting this definition with regard to the health care
10 employers that it licenses.

11 "Disqualifying offenses" means those offenses set forth in
12 Section 25 of this Act.

13 "Employee" means any individual hired, employed, or
14 retained to which this Act applies.

15 "Fingerprint-based criminal history records check" means a
16 livescan fingerprint-based criminal history records check
17 submitted as a fee applicant inquiry in the form and manner
18 prescribed by the Department of State Police.

19 "Health care employer" means:

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

21 (i) a community living facility, as defined in the
22 Community Living Facilities Act;

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

25 (iii) a long-term care facility;

26 (iv) a home health agency, home services agency, or

1 home nursing agency as defined in the Home Health, Home
2 Services, and Home Nursing Agency Licensing Act;

3 (v) a hospice care program or volunteer hospice
4 program, as defined in the Hospice Program Licensing
5 Act;

6 (vi) a hospital, as defined in the Hospital
7 Licensing Act;

8 (vii) (blank);

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

11 (ix) a respite care provider, as defined in the
12 Respite Program Act;

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

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

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

19 (xii) the University of Illinois Hospital,
20 Chicago;

21 (xiii) programs funded by the Department on Aging
22 through the Community Care Program;

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

26 (xv) programs listed by the Emergency Medical

1 Services (EMS) Systems Act as Freestanding Emergency
2 Centers;

3 (xvi) locations licensed under the Alternative
4 Health Care Delivery Act;

5 (2) a day training program certified by the Department
6 of Human Services;

7 (3) a community integrated living arrangement operated
8 by a community mental health and developmental service
9 agency, as defined in the Community-Integrated Living
10 Arrangements Licensing and Certification Act; or

11 (4) the State Long Term Care Ombudsman Program,
12 including any regional long term care ombudsman programs
13 under Section 4.04 of the Illinois Act on the Aging, only
14 for the purpose of securing background checks.

15 "Initiate" means obtaining from a student, applicant, or
16 employee his or her social security number, demographics, a
17 disclosure statement, and an authorization for the Department
18 of Public Health or its designee to request a fingerprint-based
19 criminal history records check; transmitting this information
20 electronically to the Department of Public Health; conducting
21 Internet searches on certain web sites, including without
22 limitation the Illinois Sex Offender Registry, the Department
23 of Corrections' Sex Offender Search Engine, the Department of
24 Corrections' Inmate Search Engine, the Department of
25 Corrections Wanted Fugitives Search Engine, the National Sex
26 Offender Public Registry, and the website of the Health and

1 Human Services Office of Inspector General to determine if the
2 applicant has been adjudicated a sex offender, has been a
3 prison inmate, or has committed Medicare or Medicaid fraud, or
4 conducting similar searches as defined by rule; and having the
5 student, applicant, or employee's fingerprints collected and
6 transmitted electronically to the Department of State Police.

7 "Livescan vendor" means an entity whose equipment has been
8 certified by the Department of State Police to collect an
9 individual's demographics and inkless fingerprints and, in a
10 manner prescribed by the Department of State Police and the
11 Department of Public Health, electronically transmit the
12 fingerprints and required data to the Department of State
13 Police and a daily file of required data to the Department of
14 Public Health. The Department of Public Health shall negotiate
15 a contract with one or more vendors that effectively
16 demonstrate that the vendor has 2 or more years of experience
17 transmitting fingerprints electronically to the Department of
18 State Police and that the vendor can successfully transmit the
19 required data in a manner prescribed by the Department of
20 Public Health. Vendor authorization may be further defined by
21 administrative rule.

22 "Long-term care facility" means a facility licensed by the
23 State or certified under federal law as a long-term care
24 facility, including without limitation facilities licensed
25 under the Nursing Home Care Act, a supportive living facility,
26 an assisted living establishment, or a shared housing

1 establishment or registered as a board and care home.

2 (Source: P.A. 94-379, eff. 1-1-06; 94-570, eff. 8-12-05;
3 94-665, eff. 1-1-06; 95-120, eff. 8-13-07; 95-331, eff.
4 8-21-07.)

5 (Text of Section after amendment by P.A. 96-339)

6 Sec. 15. Definitions. In this Act:

7 "Applicant" means an individual seeking employment with a
8 health care employer who has received a bona fide conditional
9 offer of employment.

10 "Conditional offer of employment" means a bona fide offer
11 of employment by a health care employer to an applicant, which
12 is contingent upon the receipt of a report from the Department
13 of Public Health indicating that the applicant does not have a
14 record of conviction of any of the criminal offenses enumerated
15 in Section 25.

16 "Direct care" means the provision of nursing care or
17 assistance with feeding, dressing, movement, bathing,
18 toileting, or other personal needs, including home services as
19 defined in the Home Health, Home Services, and Home Nursing
20 Agency Licensing Act. The entity responsible for inspecting and
21 licensing, certifying, or registering the health care employer
22 may, by administrative rule, prescribe guidelines for
23 interpreting this definition with regard to the health care
24 employers that it licenses.

25 "Disqualifying offenses" means those offenses set forth in

1 Section 25 of this Act.

2 "Employee" means any individual hired, employed, or
3 retained to which this Act applies.

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 Department of 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 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, or
16 home nursing agency as defined in the Home Health, Home
17 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 Licensing and Certification Act; or
- 26 (4) the State Long Term Care Ombudsman Program,

1 including any regional long term care ombudsman programs
2 under Section 6.7 of the Attorney General Act ~~4.04 of the~~
3 ~~Illinois Act on the Aging~~, only for the purpose of securing
4 background checks.

5 "Initiate" means obtaining from a student, applicant, or
6 employee his or her social security number, demographics, a
7 disclosure statement, and an authorization for the Department
8 of Public Health or its designee to request a fingerprint-based
9 criminal history records check; transmitting this information
10 electronically to the Department of Public Health; conducting
11 Internet searches on certain web sites, including without
12 limitation the Illinois Sex Offender Registry, the Department
13 of Corrections' Sex Offender Search Engine, the Department of
14 Corrections' Inmate Search Engine, the Department of
15 Corrections Wanted Fugitives Search Engine, the National Sex
16 Offender Public Registry, and the website of the Health and
17 Human Services Office of Inspector General to determine if the
18 applicant has been adjudicated a sex offender, has been a
19 prison inmate, or has committed Medicare or Medicaid fraud, or
20 conducting similar searches as defined by rule; and having the
21 student, applicant, or employee's fingerprints collected and
22 transmitted electronically to the Department of State Police.

23 "Livescan vendor" means an entity whose equipment has been
24 certified by the Department of State Police to collect an
25 individual's demographics and inkless fingerprints and, in a
26 manner prescribed by the Department of State Police and the

1 Department of Public Health, electronically transmit the
2 fingerprints and required data to the Department of State
3 Police and a daily file of required data to the Department of
4 Public Health. The Department of Public Health shall negotiate
5 a contract with one or more vendors that effectively
6 demonstrate that the vendor has 2 or more years of experience
7 transmitting fingerprints electronically to the Department of
8 State Police and that the vendor can successfully transmit the
9 required data in a manner prescribed by the Department of
10 Public Health. Vendor authorization may be further defined by
11 administrative rule.

12 "Long-term care facility" means a facility licensed by the
13 State or certified under federal law as a long-term care
14 facility, including without limitation facilities licensed
15 under the Nursing Home Care Act or the MR/DD Community Care
16 Act, a supportive living facility, an assisted living
17 establishment, or a shared housing establishment or registered
18 as a board and care home.

19 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;
20 96-339, eff. 7-1-10.)

21 Section 25. The Older Adult Services Act is amended by
22 changing Section 35 as follows:

23 (320 ILCS 42/35)

24 Sec. 35. Older Adult Services Advisory Committee.

1 (a) The Older Adult Services Advisory Committee is created
2 to advise the directors of Aging, Healthcare and Family
3 Services, and Public Health on all matters related to this Act
4 and the delivery of services to older adults in general.

5 (b) The Advisory Committee shall be comprised of the
6 following:

7 (1) The Director of Aging or his or her designee, who
8 shall serve as chair and shall be an ex officio and
9 nonvoting member.

10 (2) The Director of Healthcare and Family Services and
11 the Director of Public Health or their designees, who shall
12 serve as vice-chairs and shall be ex officio and nonvoting
13 members.

14 (3) One representative each of the Governor's Office,
15 the Department of Healthcare and Family Services, the
16 Department of Public Health, the Department of Veterans'
17 Affairs, the Department of Human Services, the Department
18 of Insurance, the Department of Commerce and Economic
19 Opportunity, the Department on Aging, the Office of
20 ~~Department on Aging's~~ State Long Term Care Ombudsman, the
21 Illinois Housing Finance Authority, and the Illinois
22 Housing Development Authority, each of whom shall be
23 selected by his or her respective director and shall be an
24 ex officio and nonvoting member.

25 (4) Thirty-two members appointed by the Director of
26 Aging in collaboration with the directors of Public Health

1 and Healthcare and Family Services, and selected from the
2 recommendations of statewide associations and
3 organizations, as follows:

4 (A) One member representing the Area Agencies on
5 Aging;

6 (B) Four members representing nursing homes or
7 licensed assisted living establishments;

8 (C) One member representing home health agencies;

9 (D) One member representing case management
10 services;

11 (E) One member representing statewide senior
12 center associations;

13 (F) One member representing Community Care Program
14 homemaker services;

15 (G) One member representing Community Care Program
16 adult day services;

17 (H) One member representing nutrition project
18 directors;

19 (I) One member representing hospice programs;

20 (J) One member representing individuals with
21 Alzheimer's disease and related dementias;

22 (K) Two members representing statewide trade or
23 labor unions;

24 (L) One advanced practice nurse with experience in
25 gerontological nursing;

26 (M) One physician specializing in gerontology;

1 (N) One member representing regional long-term
2 care ombudsmen;

3 (O) One member representing township officials;

4 (P) One member representing municipalities;

5 (Q) One member representing county officials;

6 (R) One member representing the parish nurse
7 movement;

8 (S) One member representing pharmacists;

9 (T) Two members representing statewide
10 organizations engaging in advocacy or legal
11 representation on behalf of the senior population;

12 (U) Two family caregivers;

13 (V) Two citizen members over the age of 60;

14 (W) One citizen with knowledge in the area of
15 gerontology research or health care law;

16 (X) One representative of health care facilities
17 licensed under the Hospital Licensing Act; and

18 (Y) One representative of primary care service
19 providers.

20 The Director of Aging, in collaboration with the Directors
21 of Public Health and Healthcare and Family Services, may
22 appoint additional citizen members to the Older Adult Services
23 Advisory Committee. Each such additional member must be either
24 an individual age 60 or older or an uncompensated caregiver for
25 a family member or friend who is age 60 or older.

26 (c) Voting members of the Advisory Committee shall serve

1 for a term of 3 years or until a replacement is named. All
2 members shall be appointed no later than January 1, 2005. Of
3 the initial appointees, as determined by lot, 10 members shall
4 serve a term of one year; 10 shall serve for a term of 2 years;
5 and 12 shall serve for a term of 3 years. Any member appointed
6 to fill a vacancy occurring prior to the expiration of the term
7 for which his or her predecessor was appointed shall be
8 appointed for the remainder of that term. The Advisory
9 Committee shall meet at least quarterly and may meet more
10 frequently at the call of the Chair. A simple majority of those
11 appointed shall constitute a quorum. The affirmative vote of a
12 majority of those present and voting shall be necessary for
13 Advisory Committee action. Members of the Advisory Committee
14 shall receive no compensation for their services.

15 (d) The Advisory Committee shall have an Executive
16 Committee comprised of the Chair, the Vice Chairs, and up to 15
17 members of the Advisory Committee appointed by the Chair who
18 have demonstrated expertise in developing, implementing, or
19 coordinating the system restructuring initiatives defined in
20 Section 25. The Executive Committee shall have responsibility
21 to oversee and structure the operations of the Advisory
22 Committee and to create and appoint necessary subcommittees and
23 subcommittee members.

24 (e) The Advisory Committee shall study and make
25 recommendations related to the implementation of this Act,
26 including but not limited to system restructuring initiatives

1 as defined in Section 25 or otherwise related to this Act.

2 (Source: P.A. 94-31, eff. 6-14-05; 95-331, eff. 8-21-07.)

3 Section 30. The Illinois Power of Attorney Act is amended
4 by changing Section 2-7.5 as follows:

5 (755 ILCS 45/2-7.5)

6 Sec. 2-7.5. Incapacitated principal.

7 (a) This Section shall apply only to an agent acting for a
8 principal who is incapacitated. A principal shall be considered
9 incapacitated if that individual is under a legal disability as
10 defined in Section 11a-2 of the Probate Act of 1975. A
11 principal shall also be considered incapacitated if: (i) a
12 physician licensed to practice medicine in all its branches has
13 examined the principal and has determined that the principal
14 lacks decision making capacity; and (ii) that physician has
15 made a written record of this determination and has signed the
16 written record within 90 days after the examination; and (iii)
17 the written record has been delivered to the agent. The agent
18 may rely conclusively on that written record.

19 (b) An agent shall provide a record of all receipts,
20 disbursements, and significant actions taken under the
21 authority of the agency when requested to do so: (i) by a
22 representative of a provider agency, as defined in Section 2 of
23 the Elder Abuse and Neglect Act, acting in the course of an
24 assessment of a complaint of elder abuse or neglect under that

1 Act; (ii) by a representative of the Office of the State Long
2 Term Care Ombudsman acting in the course of an investigation of
3 a complaint of financial exploitation of a nursing home
4 resident under Section 6.7 of the Attorney General Act ~~4.04 of~~
5 ~~the Illinois Act on the Aging~~; or (iii) by a representative of
6 the Office of Inspector General for the Department of Human
7 Services acting in the course of an assessment of a complaint
8 of financial exploitation of an adult with disabilities
9 pursuant to Section 35 of the Abuse of Adults with Disabilities
10 Intervention Act.

11 (c) If the agent fails to provide his or her record of all
12 receipts, disbursements, and significant actions within 21
13 days after a request under paragraph (b), the elder abuse
14 provider agency or the State Long Term Care Ombudsman may
15 petition the court for an order requiring the agent to produce
16 his or her record of receipts, disbursements, and significant
17 actions. If the court finds that the agent's failure to provide
18 his or her record in a timely manner to the elder abuse
19 provider agency or the State Long Term Care Ombudsman was
20 without good cause, the court may assess reasonable costs and
21 attorney's fees against the agent, and order such other relief
22 as is appropriate.

23 (Source: P.A. 94-500, eff. 8-8-05; 94-850, eff. 6-13-06.)

24 Section 95. No acceleration or delay. Where this Act makes
25 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section
2 represented by multiple versions), the use of that text does
3 not accelerate or delay the taking effect of (i) the changes
4 made by this Act or (ii) provisions derived from any other
5 Public Act.