



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3416

Introduced 2/10/2010, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

20 ILCS 105/4.03

from Ch. 23, par. 6104.03

210 ILCS 45/2-201.5

Amends the Illinois Act on the Aging and the Nursing Home Care Act. Provides that all persons age 18 or older seeking admission to a nursing facility must be screened for criminal history prior to being admitted. Provides that screening may be done by agencies other than the Department of Public Health as established by administrative rule and shall include the initiation of a background check consistent with established standards for all persons age 18 or older with the results submitted to the Department. Further provides that all background check results received by the Department shall be maintained in such a manner to permit residential and non-residential providers access to the information, and that a facility, except for those licensed as long term care for under age 22 facilities, shall, within 24 hours after admission, request the results from a criminal history background check from the Department. Effective immediately.

LRB096 18386 KTG 33763 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Illinois Act on the Aging is amended by
5 changing Section 4.03 as follows:

6 (20 ILCS 105/4.03) (from Ch. 23, par. 6104.03)

7 Sec. 4.03. The Department on Aging, in cooperation with the
8 Department of Human Services and any other appropriate State,
9 local or federal agency, shall, without regard to income
10 guidelines, establish a nursing home prescreening program to
11 determine whether Alzheimer's Disease and related disorders
12 victims, and persons who are deemed as blind or disabled as
13 defined by the Social Security Act and who are in need of long
14 term care, may be satisfactorily cared for in their homes
15 through the use of home and community based services.
16 Responsibility for prescreening shall be vested with case
17 coordination units. Prescreening shall occur: (i) when
18 hospital discharge planners have advised the case coordination
19 unit of the imminent risk of nursing home placement of a
20 patient who meets the above criteria and in advance of
21 discharge of the patient; or (ii) when a case coordination unit
22 has been advised of the imminent risk of nursing home placement
23 of an individual in the community. The individual who is

1 prescreened shall be informed of all appropriate options,
2 including placement in a nursing home and the availability of
3 in-home and community-based services and shall be advised of
4 her or his right to refuse nursing home, in-home,
5 community-based, or all services. Case coordination units
6 under contract with the Department may charge a fee for the
7 prescreening provided under this Section and the fee shall be
8 no greater than the cost of such services to the case
9 coordination unit. At the time of each prescreening, case
10 coordination units shall provide information regarding the
11 Office of State Long Term Care Ombudsman's Residents Right to
12 Know database as authorized in subsection (c-5) of Section
13 4.04.

14 As part of the prescreening process, the pre-screener shall
15 initiate a background check on all persons age 18 or older
16 consistent with the standards outlined in Section 2-201.5 of
17 the Nursing Home Care Act, with the results submitted to the
18 Department of Public Health which shall maintain information in
19 a manner that permits residential and non-residential
20 providers access to the information.

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

23 Section 10. The Nursing Home Care Act is amended by
24 changing Section 2-201.5 as follows:

1 (210 ILCS 45/2-201.5)

2 Sec. 2-201.5. Screening prior to admission.

3 (a) All persons age 18 or older seeking admission to a
4 nursing facility must be screened to determine the need for
5 nursing facility services and criminal history prior to being
6 admitted, regardless of income, assets, or funding source. In
7 addition, any person who seeks to become eligible for medical
8 assistance from the Medical Assistance Program under the
9 Illinois Public Aid Code to pay for long term care services
10 while residing in a facility must be screened prior to
11 receiving those benefits. Screening for nursing facility
12 services shall be administered through procedures established
13 by administrative rule. Screening may be done by agencies other
14 than the Department as established by administrative rule and
15 shall include the initiation of a background check consistent
16 with the standards set forth in subsection (b) for all persons
17 age 18 or older with the results submitted to the Department.
18 All background check results received by the Department shall
19 be maintained in such a manner to permit residential and
20 non-residential providers access to the information. This
21 Section applies on and after July 1, 1996.

22 (b) A ~~In addition to the screening required by subsection~~
23 ~~(a),~~ a facility, except for those licensed as long term care
24 for under age 22 facilities, shall, within 24 hours after
25 admission, request the results from a criminal history
26 background check from the Department. If the background check

1 was not initiated by a pre-screener prior to admission, the
2 facility shall request a criminal background check pursuant to
3 the Uniform Conviction Information Act for all persons age 18
4 or older seeking admission to the facility. Background checks
5 conducted pursuant to this Section shall be based on the
6 resident's name, date of birth, and other identifiers as
7 required by the Department of State Police. If the results of
8 the background check are inconclusive, the facility shall
9 initiate a fingerprint-based check, unless the fingerprint
10 check is waived by the Director of Public Health based on
11 verification by the facility that the resident is completely
12 immobile or that the resident meets other criteria related to
13 the resident's health or lack of potential risk which may be
14 established by Departmental rule. A waiver issued pursuant to
15 this Section shall be valid only while the resident is immobile
16 or while the criteria supporting the waiver exist. The facility
17 shall provide for or arrange for any required fingerprint-based
18 checks to be taken on the premises of the facility. If a
19 fingerprint-based check is required, the facility shall
20 arrange for it to be conducted in a manner that is respectful
21 of the resident's dignity and that minimizes any emotional or
22 physical hardship to the resident.

23 A facility, except for those licensed as long term care for
24 under age 22 facilities, shall, within 60 days after the
25 effective date of this amendatory Act of the 94th General
26 Assembly, request a criminal history background check pursuant

1 to the Uniform Conviction Information Act for all persons who
2 are residents of the facility on the effective date of this
3 amendatory Act of the 94th General Assembly. The facility shall
4 review the results of the criminal history background checks
5 immediately upon receipt thereof. If the results of the
6 background check are inconclusive, the facility shall initiate
7 a fingerprint-based check unless the fingerprint-based check
8 is waived by the Director of Public Health based on
9 verification by the facility that the resident is completely
10 immobile or that the resident meets other criteria related to
11 the resident's health or lack of potential risk which may be
12 established by Departmental rule. A waiver issued pursuant to
13 this Section shall be valid only while the resident is immobile
14 or while the criteria supporting the waiver exist. The facility
15 shall provide for or arrange for any required fingerprint-based
16 checks to be taken on the premises of the facility. If a
17 fingerprint-based check is required, the facility shall
18 arrange for it to be conducted in a manner that is respectful
19 of the resident's dignity and that minimizes any emotional or
20 physical hardship to the resident.

21 (c) If the results of a resident's criminal history
22 background check reveal that the resident is an identified
23 offender as defined in Section 1-114.01, the facility shall
24 immediately fax the resident's name and criminal history
25 information to the Illinois Department of Public Health, which
26 shall conduct a Criminal History Analysis pursuant to Section

1 2-201.6. The Criminal History Analysis shall be conducted
2 independently of the Illinois Department of Public Health's
3 Office of Healthcare Regulation. The Office of Healthcare
4 Regulation shall have no involvement with the process of
5 reviewing or analyzing the criminal history of identified
6 offenders.

7 (d) The Illinois Department of Public Health shall keep a
8 continuing record of all residents determined to be identified
9 offenders under Section 1-114.01 and shall report the number of
10 identified offender residents annually to the General
11 Assembly.

12 (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.