



Rep. Camille Y. Lilly

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LRB099 09433 MLM 33321 a

1 AMENDMENT TO HOUSE BILL 3212

2 AMENDMENT NO. _____. Amend House Bill 3212 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Health Care Worker Background Check Act is
5 amended by changing Sections 25 and 40 as follows:

6 (225 ILCS 46/25)

7 Sec. 25. Persons ineligible to be hired by health care
8 employers and long-term care facilities.

9 (a) In the discretion of the Director of Public Health, as
10 soon after January 1, 1996, January 1, 1997, January 1, 2006,
11 or October 1, 2007, as applicable, and as is reasonably
12 practical, no health care employer shall knowingly hire,
13 employ, or retain any individual in a position with duties
14 involving direct care for clients, patients, or residents, and
15 no long-term care facility shall knowingly hire, employ, or
16 retain any individual in a position with duties that involve or

1 may involve contact with residents or access to the living
2 quarters or the financial, medical, or personal records of
3 residents, who has been convicted of committing or attempting
4 to commit one or more of the following offenses: those defined
5 in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
6 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4,
7 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6,
8 11-9.1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,
9 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
10 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
11 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32,
12 12-33, 12C-5, 16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56, 18-1,
13 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1, 20-1.1,
14 24-1, 24-1.2, 24-1.5, or 33A-2, or subdivision (a)(4) of
15 Section 11-14.4, or in subsection (a) of Section 12-3 or
16 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
17 of 1961 or the Criminal Code of 2012; those provided in Section
18 4 of the Wrongs to Children Act; those provided in Section 53
19 of the Criminal Jurisprudence Act; ~~those defined in Section 5,~~
20 ~~5.1, 5.2, 7, or 9 of the Cannabis Control Act;~~ those defined in
21 the Methamphetamine Control and Community Protection Act; or
22 those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or
23 407.1 of the Illinois Controlled Substances Act, unless the
24 applicant or employee obtains a waiver pursuant to Section 40.

25 (a-1) In the discretion of the Director of Public Health,
26 as soon after January 1, 2004 or October 1, 2007, as

1 applicable, and as is reasonably practical, no health care
2 employer shall knowingly hire any individual in a position with
3 duties involving direct care for clients, patients, or
4 residents, and no long-term care facility shall knowingly hire
5 any individual in a position with duties that involve or may
6 involve contact with residents or access to the living quarters
7 or the financial, medical, or personal records of residents,
8 who has (i) been convicted of committing or attempting to
9 commit one or more of the offenses defined in Section 12-3.3,
10 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36,
11 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or
12 24-3.3, or subsection (b) of Section 17-32, subsection (b) of
13 Section 18-1, or subsection (b) of Section 20-1, of the
14 Criminal Code of 1961 or the Criminal Code of 2012; Section 4,
15 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card
16 Act; or Section 11-9.1A of the Criminal Code of 1961 or the
17 Criminal Code of 2012 or Section 5.1 of the Wrongs to Children
18 Act; or (ii) violated Section 50-50 of the Nurse Practice Act,
19 unless the applicant or employee obtains a waiver pursuant to
20 Section 40 of this Act.

21 A health care employer is not required to retain an
22 individual in a position with duties involving direct care for
23 clients, patients, or residents, and no long-term care facility
24 is required to retain an individual in a position with duties
25 that involve or may involve contact with residents or access to
26 the living quarters or the financial, medical, or personal

1 records of residents, who has been convicted of committing or
2 attempting to commit one or more of the offenses enumerated in
3 this subsection.

4 (b) A health care employer shall not hire, employ, or
5 retain any individual in a position with duties involving
6 direct care of clients, patients, or residents, and no
7 long-term care facility shall knowingly hire, employ, or retain
8 any individual in a position with duties that involve or may
9 involve contact with residents or access to the living quarters
10 or the financial, medical, or personal records of residents, if
11 the health care employer becomes aware that the individual has
12 been convicted in another state of committing or attempting to
13 commit an offense that has the same or similar elements as an
14 offense listed in subsection (a) or (a-1), as verified by court
15 records, records from a state agency, or an FBI criminal
16 history record check, unless the applicant or employee obtains
17 a waiver pursuant to Section 40 of this Act. This shall not be
18 construed to mean that a health care employer has an obligation
19 to conduct a criminal history records check in other states in
20 which an employee has resided.

21 (Source: P.A. 96-710, eff. 1-1-10; 96-1551, Article 1, Section
22 930, eff. 7-1-11; 96-1551, Article 2, Section 995, eff. 7-1-11;
23 96-1551, Article 10, Section 10-40, eff. 7-1-11; 97-597, eff.
24 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,
25 eff. 1-25-13.)

1 (225 ILCS 46/40)

2 Sec. 40. Waiver.

3 (a) Any student, applicant, or employee listed on the
4 Health Care Worker Registry may request a waiver of the
5 prohibition against employment by:

6 (1) completing a waiver application on a form
7 prescribed by the Department of Public Health;

8 (2) providing a written explanation of each conviction
9 to include (i) what happened, (ii) how many years have
10 passed since the offense, (iii) the individuals involved,
11 (iv) the age of the applicant at the time of the offense,
12 and (v) any other circumstances surrounding the offense;
13 and

14 (3) providing official documentation showing that all
15 fines have been paid, if applicable and except for in the
16 instance of payment of court-imposed fines or restitution
17 in which the applicant is adhering to a payment schedule,
18 and the date probation or parole was satisfactorily
19 completed, if applicable.

20 (b) The applicant may, but is not required to, submit
21 employment and character references and any other evidence
22 demonstrating the ability of the applicant or employee to
23 perform the employment responsibilities competently and
24 evidence that the applicant or employee does not pose a threat
25 to the health or safety of residents, patients, or clients.

26 (c) The Department of Public Health must inform health care

1 employers if a waiver is being sought by entering a record on
2 the Health Care Worker Registry that a waiver is pending and
3 must act upon the waiver request within 30 days of receipt of
4 all necessary information, as defined by rule. Except in cases
5 where a rehabilitation waiver is granted, a letter shall be
6 sent to the applicant notifying the applicant that he or she
7 has received an automatic waiver.

8 (d) An individual shall not be employed from the time that
9 the employer receives a notification from the Department of
10 Public Health based upon the results of a fingerprint-based
11 criminal history records check containing disqualifying
12 conditions until the time that the individual receives a
13 waiver.

14 (e) The entity responsible for inspecting, licensing,
15 certifying, or registering the health care employer and the
16 Department of Public Health shall be immune from liability for
17 any waivers granted under this Section.

18 (f) A health care employer is not obligated to employ or
19 offer permanent employment to an applicant, or to retain an
20 employee who is granted a waiver under this Section.

21 (g) The Department of Public Health shall not include
22 information on the Health Care Worker Registry that an
23 individual has received a waiver so long as there is an
24 indication that the individual is eligible to work.

25 (Source: P.A. 95-120, eff. 8-13-07; 95-545, eff. 8-28-07;
26 95-876, eff. 8-21-08; 96-565, eff. 8-18-09.)".