



Rep. Elgie R. Sims, Jr.

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09900HB3841ham003

LRB099 09358 RPS 34332 a

1 AMENDMENT TO HOUSE BILL 3841

2 AMENDMENT NO. _____. Amend House Bill 3841, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Nursing Home Care Act is amended by
6 changing Section 2-201.5 as follows:

7 (210 ILCS 45/2-201.5)

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

9 (a) All persons age 18 or older seeking admission to a
10 nursing facility must be screened to determine the need for
11 nursing facility services prior to being admitted, regardless
12 of income, assets, or funding source. Screening for nursing
13 facility services shall be administered through procedures
14 established by administrative rule. Screening may be done by
15 agencies other than the Department as established by
16 administrative rule. This Section applies on and after July 1,

1 1996. No later than October 1, 2010, the Department of
2 Healthcare and Family Services, in collaboration with the
3 Department on Aging, the Department of Human Services, and the
4 Department of Public Health, shall file administrative rules
5 providing for the gathering, during the screening process, of
6 information relevant to determining each person's potential
7 for placing other residents, employees, and visitors at risk of
8 harm.

9 (a-1) Any screening performed pursuant to subsection (a) of
10 this Section shall include a determination of whether any
11 person is being considered for admission to a nursing facility
12 due to a need for mental health services. For a person who
13 needs mental health services, the screening shall also include
14 an evaluation of whether there is permanent supportive housing,
15 or an array of community mental health services, including but
16 not limited to supported housing, assertive community
17 treatment, and peer support services, that would enable the
18 person to live in the community. The person shall be told about
19 the existence of any such services that would enable the person
20 to live safely and humanely and about available appropriate
21 nursing home services that would enable the person to live
22 safely and humanely, and the person shall be given the
23 assistance necessary to avail himself or herself of any
24 available services.

25 (a-2) Pre-screening for persons with a serious mental
26 illness shall be performed by a psychiatrist, a psychologist, a

1 registered nurse certified in psychiatric nursing, a licensed
2 clinical professional counselor, or a licensed clinical social
3 worker, who is competent to (i) perform a clinical assessment
4 of the individual, (ii) certify a diagnosis, (iii) make a
5 determination about the individual's current need for
6 treatment, including substance abuse treatment, and recommend
7 specific treatment, and (iv) determine whether a facility or a
8 community-based program is able to meet the needs of the
9 individual.

10 For any person entering a nursing facility, the
11 pre-screening agent shall make specific recommendations about
12 what care and services the individual needs to receive,
13 beginning at admission, to attain or maintain the individual's
14 highest level of independent functioning and to live in the
15 most integrated setting appropriate for his or her physical and
16 personal care and developmental and mental health needs. These
17 recommendations shall be revised as appropriate by the
18 pre-screening or re-screening agent based on the results of
19 resident review and in response to changes in the resident's
20 wishes, needs, and interest in transition.

21 Upon the person entering the nursing facility, the
22 Department of Human Services or its designee shall assist the
23 person in establishing a relationship with a community mental
24 health agency or other appropriate agencies in order to (i)
25 promote the person's transition to independent living and (ii)
26 support the person's progress in meeting individual goals.

1 (a-3) The Department of Human Services, by rule, shall
2 provide for a prohibition on conflicts of interest for
3 pre-admission screeners. The rule shall provide for waiver of
4 those conflicts by the Department of Human Services if the
5 Department of Human Services determines that a scarcity of
6 qualified pre-admission screeners exists in a given community
7 and that, absent a waiver of conflicts, an insufficient number
8 of pre-admission screeners would be available. If a conflict is
9 waived, the pre-admission screener shall disclose the conflict
10 of interest to the screened individual in the manner provided
11 for by rule of the Department of Human Services. For the
12 purposes of this subsection, a "conflict of interest" includes,
13 but is not limited to, the existence of a professional or
14 financial relationship between (i) a PAS-MH corporate or a
15 PAS-MH agent and (ii) a community provider or long-term care
16 facility.

17 (b) In addition to the screening required by subsection
18 (a), a facility, except for those licensed as long term care
19 for under age 22 facilities, shall, within 24 hours after
20 admission, request a criminal history background check
21 pursuant to the Uniform Conviction Information Act for all
22 persons age 18 or older seeking admission to the facility,
23 unless (i) a background check was initiated by a hospital
24 pursuant to subsection (d) of Section 6.09 of the Hospital
25 Licensing Act; (ii) the transferring resident is immobile;
26 (iii) the transferring resident is moving into hospice; (iv)

1 the transferring resident is wheelchair bound and is 75 years
2 of age or older; or (v) the transferring resident is 65 years
3 of age or older and has undergone a fingerprint screening that
4 showed no violent criminal history or criminal history for at
5 least 15 years and, based on risk analysis, does not show
6 indications of substance abuse or serious mental health issues.
7 The exemptions provided in items (ii) through (v) of this
8 subsection (b) shall apply only if a background check was
9 completed by the facility the resident resided at prior to
10 seeking admission to the facility and the resident was
11 transferred to the facility with no time passing during which
12 the resident was not institutionalized. If item (ii), (iii),
13 (iv), or (v) of this subsection (b) applies, the prior facility
14 shall provide a copy of its background check of the resident
15 and all supporting documentation, including, when applicable,
16 the criminal history report and the security assessment, to the
17 facility to which the resident is being transferred. Background
18 checks conducted pursuant to this Section shall be based on the
19 resident's name, date of birth, and other identifiers as
20 required by the Department of State Police. If the results of
21 the background check are inconclusive, the facility shall
22 initiate a fingerprint-based check, unless the fingerprint
23 check is waived by the Director of Public Health based on
24 verification by the facility that the resident is completely
25 immobile or that the resident meets other criteria related to
26 the resident's health or lack of potential risk which may be

1 established by Departmental rule. A waiver issued pursuant to
2 this Section shall be valid only while the resident is immobile
3 or while the criteria supporting the waiver exist. The facility
4 shall provide for or arrange for any required fingerprint-based
5 checks to be taken on the premises of the facility. If a
6 fingerprint-based check is required, the facility shall
7 arrange for it to be conducted in a manner that is respectful
8 of the resident's dignity and that minimizes any emotional or
9 physical hardship to the resident.

10 (c) If the results of a resident's criminal history
11 background check reveal that the resident is an identified
12 offender as defined in Section 1-114.01, the facility shall do
13 the following:

14 (1) Immediately notify the Department of State Police,
15 in the form and manner required by the Department of State
16 Police, in collaboration with the Department of Public
17 Health, that the resident is an identified offender.

18 (2) Within 72 hours, arrange for a fingerprint-based
19 criminal history record inquiry to be requested on the
20 identified offender resident. The inquiry shall be based on
21 the subject's name, sex, race, date of birth, fingerprint
22 images, and other identifiers required by the Department of
23 State Police. The inquiry shall be processed through the
24 files of the Department of State Police and the Federal
25 Bureau of Investigation to locate any criminal history
26 record information that may exist regarding the subject.

1 The Federal Bureau of Investigation shall furnish to the
2 Department of State Police, pursuant to an inquiry under
3 this paragraph (2), any criminal history record
4 information contained in its files.

5 The facility shall comply with all applicable provisions
6 contained in the Uniform Conviction Information Act.

7 All name-based and fingerprint-based criminal history
8 record inquiries shall be submitted to the Department of State
9 Police electronically in the form and manner prescribed by the
10 Department of State Police. The Department of State Police may
11 charge the facility a fee for processing name-based and
12 fingerprint-based criminal history record inquiries. The fee
13 shall be deposited into the State Police Services Fund. The fee
14 shall not exceed the actual cost of processing the inquiry.

15 (d) (Blank).

16 (e) The Department shall develop and maintain a
17 de-identified database of residents who have injured facility
18 staff, facility visitors, or other residents, and the attendant
19 circumstances, solely for the purposes of evaluating and
20 improving resident pre-screening and assessment procedures
21 (including the Criminal History Report prepared under Section
22 2-201.6) and the adequacy of Department requirements
23 concerning the provision of care and services to residents. A
24 resident shall not be listed in the database until a Department
25 survey confirms the accuracy of the listing. The names of
26 persons listed in the database and information that would allow

1 them to be individually identified shall not be made public.
2 Neither the Department nor any other agency of State government
3 may use information in the database to take any action against
4 any individual, licensee, or other entity, unless the
5 Department or agency receives the information independent of
6 this subsection (e). All information collected, maintained, or
7 developed under the authority of this subsection (e) for the
8 purposes of the database maintained under this subsection (e)
9 shall be treated in the same manner as information that is
10 subject to Part 21 of Article VIII of the Code of Civil
11 Procedure.

12 (Source: P.A. 96-1372, eff. 7-29-10; 97-48, eff. 6-28-11.)

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