

AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Health Care Violence Prevention Act.

Section 5. Definitions. As used in this Act:

"Committed person" means a person who is in the custody of or under the control of a custodial agency, including, but not limited to, a person who is incarcerated, under arrest, detained, or otherwise under the physical control of a custodial agency.

"Custodial agency" means the Illinois Department of Corrections, the Illinois State Police, the sheriff of a county, a county jail, a correctional institution, or any other State agency, municipality, or unit of local government that employs personnel designated as police, peace officers, wardens, corrections officers, or guards or that employs personnel vested by law with the power to place or maintain a person in custody.

"Health care provider" means a retail health care facility, a hospital subject to the Hospital Licensing Act or the University of Illinois Hospital Act, or a veterans home as defined in the Department of Veterans' Affairs Act.

"Health care worker" means nursing assistants and other support personnel, any individual licensed under the laws of this State to provide health services, including but not limited to: dentists licensed under the Illinois Dental Practice Act; dental hygienists licensed under the Illinois Dental Practice Act; nurses and advanced practice registered nurses licensed under the Nurse Practice Act; occupational therapists licensed under the Illinois Occupational Therapy Practice Act; optometrists licensed under the Illinois Optometric Practice Act of 1987; pharmacists licensed under the Pharmacy Practice Act; physical therapists licensed under the Illinois Physical Therapy Act; physicians licensed under the Medical Practice Act of 1987; physician assistants licensed under the Physician Assistant Practice Act of 1987; podiatric physicians licensed under the Podiatric Medical Practice Act of 1987; clinical psychologists licensed under the Clinical Psychologist Licensing Act; clinical social workers licensed under the Clinical Social Work and Social Work Practice Act; speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act; or hearing instrument dispensers licensed under the Hearing Instrument Consumer Protection Act, or any of their successor Acts.

"Nurse" means a person who is licensed to practice nursing under the Nurse Practice Act.

"Retail health care facility" means an institution, place,

or building, or any portion thereof, that:

(1) is devoted to the maintenance and operation of a facility for the performance of health care services and is located within a retail store at a specific location;

(2) does not provide surgical services or any form of general anesthesia;

(3) does not provide beds or other accommodations for either the long-term or overnight stay of patients; and

(4) discharges individual patients in an ambulatory condition without danger to the continued well-being of the patients and transfers non-ambulatory patients to hospitals.

"Retail health care facility" does not include hospitals, long-term care facilities, ambulatory treatment centers, blood banks, clinical laboratories, offices of physicians, advanced practice registered nurses, podiatrists, and physician assistants, and pharmacies that provide limited health care services.

Section 10. Application. This Act applies to health care providers and custodial agencies as defined in Section 5.

This Act does not apply to an owner of an institution, place, building, or any portion of the institution, place, or building, who directly or indirectly leases space that is used by the lessee to operate a retail health care facility.

Section 15. Workplace safety.

(a) A health care worker who contacts law enforcement or files a report with law enforcement against a patient or individual because of workplace violence shall provide notice to management of the health care provider by which he or she is employed within 3 days after contacting law enforcement or filing the report.

(b) No management of a health care provider may discourage a health care worker from exercising his or her right to contact law enforcement or file a report with law enforcement because of workplace violence.

(c) A health care provider that employs a health care worker shall display a notice stating that verbal aggression will not be tolerated and physical assault will be reported to law enforcement.

(d) The health care provider shall offer immediate post-incident services for a health care worker directly involved in a workplace violence incident caused by patients or their visitors, including acute treatment and access to psychological evaluation.

Section 20. Workplace violence prevention program.

(a) A health care provider shall create a workplace violence prevention program that complies with the Occupational Safety and Health Administration guidelines for preventing workplace violence for health care and social

service workers as amended or updated by the Occupational Safety and Health Administration.

(a-5) In addition, the workplace violence prevention program shall include:

(1) the following classifications of workplace violence as one of 4 possible types:

(A) "Type 1 violence" means workplace violence committed by a person who has no legitimate business at the work site and includes violent acts by anyone who enters the workplace with the intent to commit a crime.

(B) "Type 2 violence" means workplace violence directed at employees by customers, clients, patients, students, inmates, visitors, or other individuals accompanying a patient.

(C) "Type 3 violence" means workplace violence against an employee by a present or former employee, supervisor, or manager.

(D) "Type 4 violence" means workplace violence committed in the workplace by someone who does not work there, but has or is known to have had a personal relationship with an employee.

(2) management commitment and worker participation, including, but not limited to, nurses;

(3) worksite analysis and identification of potential hazards;

(4) hazard prevention and control;

(5) safety and health training with required hours determined by rule; and

(6) recordkeeping and evaluation of the violence prevention program.

(b) The Department of Public Health may by rule adopt additional criteria for workplace violence prevention programs.

Section 25. Whistleblower protection. The Whistleblower Act applies to health care providers and their employees with respect to actions taken to implement or enforce compliance with this Act.

Section 30. Medical care for committed persons.

(a) If a committed person receives medical care and treatment at a place other than an institution or facility of the Department of Corrections, a county, or a municipality, then the institution or facility shall:

(1) to the greatest extent practicable, notify the hospital or medical facility that is treating the committed person prior to the committed person's visit and notify the hospital or medical facility of any significant medical, mental health, recent violent actions, or other safety concerns regarding the patient;

(2) to the greatest extent practicable, ensure the transferred committed person is accompanied by the most

comprehensive medical records possible;

(3) provide at least one guard trained in custodial escort and custody of high-risk committed persons to accompany any committed person. The custodial agency shall attest to such training for custodial escort and custody of high-risk committed persons through: (A) the training of the Department of Corrections or Department of Juvenile Justice; (B) law enforcement training that is substantially equivalent to the training of the Department of Corrections or Department of Juvenile Justice; or (C) the training described in Section 35. Under no circumstances may leg irons or shackles or waist shackles be used on any pregnant female prisoner who is in labor. In addition, restraint of a pregnant female prisoner in the custody of the Cook County shall comply with Section 3-15003.6 of the Counties Code. Additionally, restraints shall not be used on a committed person if medical personnel determine that the restraints would impede medical treatment; and

(4) ensure that only medical personnel, Department of Corrections, county, or municipality personnel, and visitors on the committed person's approved institutional visitors list may visit the committed person. Visitation by a person on the committed person's approved institutional visitors list shall be subject to the rules and procedures of the hospital or medical facility and the Department of

Corrections, county, or municipality. In any situation in which a committed person is being visited:

(A) the name of the visitor must be listed per the facility's or institution's documentation;

(B) the visitor shall submit to the search of his or her person or any personal property under his or her control at any time; and

(C) the custodial agency may deny the committed person access to a telephone or limit the number of visitors the committed person may receive for purposes of safety.

If a committed person receives medical care and treatment at a place other than an institution or facility of the Department of Corrections, county, or municipality, then the custodial agency shall ensure that the committed person is wearing security restraints in accordance with the custodial agency's rules and procedures if the custodial agency determines that restraints are necessary for the following reasons: (i) to prevent physical harm to the committed person or another person; (ii) because the committed person has a history of disruptive behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or (iii) there is a well-founded belief that the committed person presents a substantial risk of flight. Under no circumstances may leg irons or shackles or



waist shackles be used on any pregnant female prisoner who is in labor. In addition, restraint of a pregnant female prisoner in the custody of the Cook County shall comply with Section 3-15003.6 of the Counties Code.

The hospital or medical facility may establish protocols for the receipt of committed persons in collaboration with the Department of Corrections, county, or municipality, specifically with regard to potentially violent persons.

(b) If a committed person receives medical care and treatment at a place other than an institution or facility of the Department of Juvenile Justice, then the institution or facility shall:

(1) to the greatest extent practicable, notify the hospital or medical facility that is treating the committed person prior to the committed person's visit, and notify the hospital or medical facility of any significant medical, mental health, recent violent actions, or other safety concerns regarding the patient;

(2) to the greatest extent practicable, ensure the transferred committed person is accompanied by the most comprehensive medical records possible;

(3) provide: (A) at least one guard trained in custodial escort and custody of high-risk committed persons to accompany any committed person. The custodial agency shall attest to such training for custodial escort and custody of high-risk committed persons through: (i) the

training of the Department of Corrections or Department of Juvenile Justice, (ii) law enforcement training that is substantially equivalent to the training of the Department of Corrections or Department of Juvenile Justice, or (iii) the training described in Section 35; or (B) 2 guards to accompany the committed person at all times during the visit to the hospital or medical facility; and

(4) ensure that only medical personnel, Department of Juvenile Justice personnel, and visitors on the committed person's approved institutional visitors list may visit the committed person. Visitation by a person on the committed person's approved institutional visitors list shall be subject to the rules and procedures of the hospital or medical facility and the Department of Juvenile Justice. In any situation in which a committed person is being visited:

(A) the name of the visitor must be listed per the facility's or institution's documentation;

(B) the visitor shall submit to the search of his or her person or any personal property under his or her control at any time; and

(C) the custodial agency may deny the committed person access to a telephone or limit the number of visitors the committed person may receive for purposes of safety.

If a committed person receives medical care and treatment

at a place other than an institution or facility of the Department of Juvenile Justice, then the Department of Juvenile Justice shall ensure that the committed person is wearing security restraints on either his or her wrists or ankles in accordance with the rules and procedures of the Department of Juvenile Justice if the Department of Juvenile Justice determines that restraints are necessary for the following reasons: (i) to prevent physical harm to the committed person or another person; (ii) because the committed person has a history of disruptive behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or (iii) there is a well-founded belief that the committed person presents a substantial risk of flight. Any restraints used on a committed person under this paragraph shall be the least restrictive restraints necessary to prevent flight or physical harm to the committed person or another person. Restraints shall not be used on the committed person as provided in this paragraph if medical personnel determine that the restraints would impede medical treatment. Under no circumstances may leg irons or shackles or waist shackles be used on any pregnant female prisoner who is in labor. In addition, restraint of a pregnant female prisoner in the custody of the Cook County shall comply with Section 3-15003.6 of the Counties Code.

The hospital or medical facility may establish protocols

for the receipt of committed persons in collaboration with the Department of Juvenile Justice, specifically with regard to persons recently exhibiting violence.

Section 35. Custodial agency training. The Illinois Law Enforcement Training Standards Board shall establish a curriculum for custodial escort and custody of high-risk committed persons certification, which shall include, but not be limited to, the following:

- (1) handcuffing or shackling of a high-risk committed person;
- (2) mobile transportation of a committed person with defense from the committed person's attack;
- (3) outside facility threat assessment;
- (4) hands-on weapons retention training; and
- (5) custodial considerations for a high-risk committed person in outside facilities.

Section 90. The State Police Act is amended by adding Section 45 as follows:

(20 ILCS 2610/45 new)

Sec. 45. Compliance with the Health Care Violence Prevention Act. The Department shall comply with the Health Care Violence Prevention Act.

Section 95. The Department of Veterans' Affairs Act is amended by changing Section 2.07 as follows:

(20 ILCS 2805/2.07) (from Ch. 126 1/2, par. 67.07)

Sec. 2.07. The Department shall employ and maintain sufficient and qualified staff at the veterans' homes (i) to fill all beds, subject to appropriation, and (ii) to fulfill the requirements of this Act. The Department shall report to the General Assembly, by January 1 and July 1 of each year, the number of staff employed in providing direct patient care at their veterans' homes, the compliance or noncompliance with staffing standards established by the United States Department of Veterans Affairs for such care, and in the event of noncompliance with such standards, the number of staff required for compliance. For purposes of this Section, a nurse who has a license application pending with the State shall not be deemed unqualified by the Department if the nurse is in compliance with Section 50-15 of the Nurse Practice Act.

A veterans home is subject to the Health Care Violence Prevention Act.

(Source: P.A. 96-699, eff. 8-25-09; 97-297, eff. 1-1-12.)

Section 100. The University of Illinois Hospital Act is amended by adding Section 10 as follows:

(110 ILCS 330/10 new)

Sec. 10. Compliance with the Health Care Violence Prevention Act. The University of Illinois Hospital shall comply with the Health Care Violence Prevention Act.

Section 105. The Hospital Licensing Act is amended by adding Section 9.8 as follows:

(210 ILCS 85/9.8 new)

Sec. 9.8. Compliance with the Health Care Violence Prevention Act. A hospital licensed under this Act shall comply with the Health Care Violence Prevention Act.

Section 110. The Unified Code of Corrections is amended by changing Section 3-6-2 as follows:

(730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

Sec. 3-6-2. Institutions and Facility Administration.

(a) Each institution and facility of the Department shall be administered by a chief administrative officer appointed by the Director. A chief administrative officer shall be responsible for all persons assigned to the institution or facility. The chief administrative officer shall administer the programs of the Department for the custody and treatment of such persons.

(b) The chief administrative officer shall have such assistants as the Department may assign.

(c) The Director or Assistant Director shall have the emergency powers to temporarily transfer individuals without formal procedures to any State, county, municipal or regional correctional or detention institution or facility in the State, subject to the acceptance of such receiving institution or facility, or to designate any reasonably secure place in the State as such an institution or facility and to make transfers thereto. However, transfers made under emergency powers shall be reviewed as soon as practicable under Article 8, and shall be subject to Section 5-905 of the Juvenile Court Act of 1987. This Section shall not apply to transfers to the Department of Human Services which are provided for under Section 3-8-5 or Section 3-10-5.

(d) The Department shall provide educational programs for all committed persons so that all persons have an opportunity to attain the achievement level equivalent to the completion of the twelfth grade in the public school system in this State. Other higher levels of attainment shall be encouraged and professional instruction shall be maintained wherever possible. The Department may establish programs of mandatory education and may establish rules and regulations for the administration of such programs. A person committed to the Department who, during the period of his or her incarceration, participates in an educational program provided by or through the Department and through that program is awarded or earns the number of hours of credit required for the award of an

associate, baccalaureate, or higher degree from a community college, college, or university located in Illinois shall reimburse the State, through the Department, for the costs incurred by the State in providing that person during his or her incarceration with the education that qualifies him or her for the award of that degree. The costs for which reimbursement is required under this subsection shall be determined and computed by the Department under rules and regulations that it shall establish for that purpose. However, interest at the rate of 6% per annum shall be charged on the balance of those costs from time to time remaining unpaid, from the date of the person's parole, mandatory supervised release, or release constituting a final termination of his or her commitment to the Department until paid.

(d-5) A person committed to the Department is entitled to confidential testing for infection with human immunodeficiency virus (HIV) and to counseling in connection with such testing, with no copay to the committed person. A person committed to the Department who has tested positive for infection with HIV is entitled to medical care while incarcerated, counseling, and referrals to support services, in connection with that positive test result. Implementation of this subsection (d-5) is subject to appropriation.

(e) A person committed to the Department who becomes in need of medical or surgical treatment but is incapable of giving consent thereto shall receive such medical or surgical



treatment by the chief administrative officer consenting on the person's behalf. Before the chief administrative officer consents, he or she shall obtain the advice of one or more physicians licensed to practice medicine in all its branches in this State. If such physician or physicians advise:

(1) that immediate medical or surgical treatment is required relative to a condition threatening to cause death, damage or impairment to bodily functions, or disfigurement; and

(2) that the person is not capable of giving consent to such treatment; the chief administrative officer may give consent for such medical or surgical treatment, and such consent shall be deemed to be the consent of the person for all purposes, including, but not limited to, the authority of a physician to give such treatment.

(e-5) If a physician providing medical care to a committed person on behalf of the Department advises the chief administrative officer that the committed person's mental or physical health has deteriorated as a result of the cessation of ingestion of food or liquid to the point where medical or surgical treatment is required to prevent death, damage, or impairment to bodily functions, the chief administrative officer may authorize such medical or surgical treatment.

(f) In the event that the person requires medical care and treatment at a place other than the institution or facility, the person may be removed therefrom under conditions prescribed

by the Department. The Department shall require the committed person receiving medical or dental services on a non-emergency basis to pay a \$5 co-payment to the Department for each visit for medical or dental services. The amount of each co-payment shall be deducted from the committed person's individual account. A committed person who has a chronic illness, as defined by Department rules and regulations, shall be exempt from the \$5 co-payment for treatment of the chronic illness. A committed person shall not be subject to a \$5 co-payment for follow-up visits ordered by a physician, who is employed by, or contracts with, the Department. A committed person who is indigent is exempt from the \$5 co-payment and is entitled to receive medical or dental services on the same basis as a committed person who is financially able to afford the co-payment. For purposes of this Section only, "indigent" means a committed person who has \$20 or less in his or her Inmate Trust Fund at the time of such services and for the 30 days prior to such services. Notwithstanding any other provision in this subsection (f) to the contrary, any person committed to any facility operated by the Department of Juvenile Justice, as set forth in Section 3-2.5-15 of this Code, is exempt from the co-payment requirement for the duration of confinement in those facilities.

(f-5) The Department shall comply with the Health Care Violence Prevention Act.

(g) Any person having sole custody of a child at the time

of commitment or any woman giving birth to a child after her commitment, may arrange through the Department of Children and Family Services for suitable placement of the child outside of the Department of Corrections. The Director of the Department of Corrections may determine that there are special reasons why the child should continue in the custody of the mother until the child is 6 years old.

(h) The Department may provide Family Responsibility Services which may consist of, but not be limited to the following:

- (1) family advocacy counseling;
  - (2) parent self-help group;
  - (3) parenting skills training;
  - (4) parent and child overnight program;
  - (5) parent and child reunification counseling, either separately or together, preceding the inmate's release;
- and
- (6) a prerelease reunification staffing involving the family advocate, the inmate and the child's counselor, or both and the inmate.

(i) (Blank).

(j) Any person convicted of a sex offense as defined in the Sex Offender Management Board Act shall be required to receive a sex offender evaluation prior to release into the community from the Department of Corrections. The sex offender evaluation shall be conducted in conformance with the standards and

guidelines developed under the Sex Offender Management Board Act and by an evaluator approved by the Board.

(k) Any minor committed to the Department of Juvenile Justice for a sex offense as defined by the Sex Offender Management Board Act shall be required to undergo sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the Sex Offender Management Board Act.

(l) Prior to the release of any inmate committed to a facility of the Department or the Department of Juvenile Justice, the Department must provide the inmate with appropriate information verbally, in writing, by video, or other electronic means, concerning HIV and AIDS. The Department shall develop the informational materials in consultation with the Department of Public Health. At the same time, the Department must also offer the committed person the option of testing for infection with human immunodeficiency virus (HIV), with no copayment for the test. Pre-test information shall be provided to the committed person and informed consent obtained as required in subsection (d) of Section 3 and Section 5 of the AIDS Confidentiality Act. The Department may conduct opt-out HIV testing as defined in Section 4 of the AIDS Confidentiality Act. If the Department conducts opt-out HIV testing, the Department shall place signs in English, Spanish and other languages as needed in multiple, highly visible locations in the area where HIV testing is conducted informing inmates that

they will be tested for HIV unless they refuse, and refusal or acceptance of testing shall be documented in the inmate's medical record. The Department shall follow procedures established by the Department of Public Health to conduct HIV testing and testing to confirm positive HIV test results. All testing must be conducted by medical personnel, but pre-test and other information may be provided by committed persons who have received appropriate training. The Department, in conjunction with the Department of Public Health, shall develop a plan that complies with the AIDS Confidentiality Act to deliver confidentially all positive or negative HIV test results to inmates or former inmates. Nothing in this Section shall require the Department to offer HIV testing to an inmate who is known to be infected with HIV, or who has been tested for HIV within the previous 180 days and whose documented HIV test result is available to the Department electronically. The testing provided under this subsection (1) shall consist of a test approved by the Illinois Department of Public Health to determine the presence of HIV infection, based upon recommendations of the United States Centers for Disease Control and Prevention. If the test result is positive, a reliable supplemental test based upon recommendations of the United States Centers for Disease Control and Prevention shall be administered.

Prior to the release of an inmate who the Department knows has tested positive for infection with HIV, the Department in a

timely manner shall offer the inmate transitional case management, including referrals to other support services.

(m) The chief administrative officer of each institution or facility of the Department shall make a room in the institution or facility available for addiction recovery services to be provided to committed persons on a voluntary basis. The services shall be provided for one hour once a week at a time specified by the chief administrative officer of the institution or facility if the following conditions are met:

(1) the addiction recovery service contacts the chief administrative officer to arrange the meeting;

(2) the committed person may attend the meeting for addiction recovery services only if the committed person uses pre-existing free time already available to the committed person;

(3) all disciplinary and other rules of the institution or facility remain in effect;

(4) the committed person is not given any additional privileges to attend addiction recovery services;

(5) if the addiction recovery service does not arrange for scheduling a meeting for that week, no addiction recovery services shall be provided to the committed person in the institution or facility for that week;

(6) the number of committed persons who may attend an addiction recovery meeting shall not exceed 40 during any session held at the correctional institution or facility;

(7) a volunteer seeking to provide addiction recovery services under this subsection (m) must submit an application to the Department of Corrections under existing Department rules and the Department must review the application within 60 days after submission of the application to the Department; and

(8) each institution and facility of the Department shall manage the addiction recovery services program according to its own processes and procedures.

For the purposes of this subsection (m), "addiction recovery services" means recovery services for alcoholics and addicts provided by volunteers of recovery support services recognized by the Department of Human Services.

(Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323, eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12; 97-813, eff. 7-13-12.)

Section 115. The County Jail Act is amended by changing Section 17.5 and by adding Section 17.15 as follows:

(730 ILCS 125/17.5)

Sec. 17.5. Pregnant female prisoners. Notwithstanding any other statute, directive, or administrative regulation, when a pregnant female prisoner is brought to a hospital from a county jail for the purpose of delivering her baby, no handcuffs, shackles, or restraints of any kind may be used during her

transport to a medical facility for the purpose of delivering her baby. Under no circumstances may leg irons or shackles or waist shackles be used on any pregnant female prisoner who is in labor. In addition, restraint of a pregnant female prisoner in the custody of the Cook County shall comply with Section 3-15003.6 of the Counties Code. Upon the pregnant female prisoner's entry to the hospital delivery room, 2 ~~a~~ county correctional officers ~~officer~~ must be posted immediately outside the delivery room. The Sheriff must provide for adequate personnel to monitor the pregnant female prisoner during her transport to and from the hospital and during her stay at the hospital.

(Source: P.A. 91-253, eff. 1-1-00.)

(730 ILCS 125/17.15 new)

Sec. 17.15. Compliance with the Health Care Violence Prevention Act. The sheriff or warden of the jail shall comply with the Health Care Violence Prevention Act.