



General Assembly

January Session, 2023

Raised Bill No. 1074

LCO No. 4022



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT REQUIRING LONG-TERM CARE FACILITY RESIDENTS TO UNDERGO A CRIMINAL HISTORY AND SEXUAL OFFENDER REGISTRY SEARCH.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective July 1, 2023*) (a) As used in this section:

2 (1) "Criminal history and sexual offender registry search" or
3 "background search" means (A) state and national criminal history
4 records checks conducted in accordance with section 29-17a of the
5 general statutes, (B) a search of the National Sex Offender Public
6 Website maintained by the United States Department of Justice and the
7 registry established and maintained pursuant to section 54-257 of the
8 general statutes, and (C) a review of any other registry specified by the
9 Department of Public Health that the department deems necessary for
10 the administration of a background search program.

11 (2) "Disqualifying offense" means a conviction of a crime described in
12 section 53a-59, 53a-59a, 53-59b, 53a-59c, 53a-60, 53a-60a, 53a-60b, 53a-
13 60c, 53a-61, 53a-61a, 53-61aa, 53a-62, 53a-64aa, 53a-64bb, 53a-64cc, 53a-
14 70, 53a-70a, 53a-70c, 53a-71, 53a-72, 53a-72a, 53a-72b, 53a-73a, 53a-83b,

15 53a-86, 53a-90a, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-
16 101, 53a-102, 53a-102a, 53a-103, 53a-103a, 53a-107, 53a-108, 53a-109, 53a-
17 111, 53a-112, 53a-113, 53a-114, 53a-115, 53a-116, 53a-117, 53a-117a, 53a-
18 117e, 53a-117f, 53a-117g, 53a-133, 53a-134, 53a-135, 53a-136, 53a-136a,
19 53a-167c, 53a-167d, 53a-167e, 53a-175, 53a-176, 53a-177, 53a-178, 53a-
20 179, 53a-179a, 53a-179b, 53a-179c, 53a-180, 53a-180a, 53a-180b, 53a-180c,
21 53a-180aa, 53a-181, 53a-181a, 53a-181c, 53a-181d, 53a-181e, 53a-181f,
22 53a-181i, 53a-181j, 53a-181k, 53a-181l, 53a-182, 53a-182b, 53a-183, 53a-
23 183b, 53a-185, 53a-186, 53a-189a, 53a-189b, 53a-189c, 53a-192, 53a-192a,
24 53a-223, 53a-223a, 53a-223b, 53a-223c, 53a-224, 53a-300, 53a-301, 53a-302,
25 53a-304, 53a-321, 53a-322 or 53a-323 of the general statutes.

26 (3) "Long-term care facility" means a nursing home, as defined in
27 section 19a-490 of the general statutes, a residential care home, as
28 defined in section 19a-490 of the general statutes, or a managed
29 residential community, as defined in section 19a-693 of the general
30 statutes, that provides services offered by an assisted living services
31 agency, as defined in section 19a-490 of the general statutes.

32 (b) Not later than January 1, 2024, the Department of Public Health,
33 within available appropriations, shall create and implement a criminal
34 history and sexual offender registry search program in order to facilitate
35 the performance, processing and analysis of a background search of any
36 person who is applying for admission or is otherwise to be admitted to
37 a long-term care facility.

38 (c) (1) On and after January 1, 2024, except as provided in subdivision
39 (2) of this subsection, each long-term care facility, prior to admitting a
40 person as a resident to the long-term care facility, shall require that such
41 person submit to a background search. The Department of Public Health
42 shall prescribe the manner by which (A) long-term care facilities
43 perform the review of any registry specified by the department,
44 including requiring long-term care facilities to report the results of such
45 review to the department, and (B) the person shall submit to a
46 background search, including requiring the Department of Emergency
47 Services and Public Protection to report the results of such background

48 search to the Department of Public Health.

49 (2) No long-term care facility shall be required to comply with the
50 provisions of subdivision (1) of this subsection if (A) the person
51 provides evidence to the long-term care facility that such person
52 submitted to a background search conducted pursuant to subdivision
53 (1) of this subsection not more than one month immediately preceding
54 the date such person applies for admission as a resident of the long-term
55 care facility and that the prior background search confirmed that the
56 person did not have a disqualifying offense, (B) the long-term care
57 facility operates with a mission to serve the justice-involved population,
58 or (C) the person is being transferred from a hospital to the long-term
59 care facility for the purpose of receiving rehabilitation services,
60 provided the long-term care facility shall require that such person
61 submit to a background search as soon as practicable after such person
62 is admitted to the long-term care facility for receipt of such services.

63 (d) (1) The Department of Public Health shall review all reports
64 provided to the department pursuant to subsection (c) of this section. If
65 any such report contains evidence indicating that a person has a
66 disqualifying offense, the department shall provide notice to the person
67 and the long-term care facility indicating the disqualifying offense and
68 providing the person with the opportunity to file a request for a waiver
69 pursuant to subdivision (2) of this subsection.

70 (2) A person may file a written request for a waiver with the
71 department not later than thirty days after the date the department
72 provides notice to the person pursuant to subdivision (1) of this
73 subsection. The department shall mail a written determination
74 indicating whether the department shall grant a waiver pursuant to
75 subdivision (3) of this subsection not later than fifteen business days
76 after the department receives the written request from the person,
77 except that said time period shall not apply to any request for a waiver
78 in which a person challenges the accuracy of the information obtained
79 from the background search.

80 (3) The department may grant a waiver from the provisions of
81 subsection (e) of this section to a person who identifies mitigating
82 circumstances surrounding the disqualifying offense, including (A)
83 inaccuracy in the information obtained from the background search, (B)
84 lack of a relationship between the disqualifying offense and the
85 residency for which the person has applied, (C) evidence that the person
86 has pursued or achieved rehabilitation with regard to the disqualifying
87 offense, or (D) that substantial time has elapsed since committing the
88 disqualifying offense. The department and its employees shall be
89 immune from liability, civil or criminal, that might otherwise be
90 incurred or imposed, for good faith conduct in granting waivers
91 pursuant to this subdivision.

92 (4) After completing a review pursuant to subdivision (1) of this
93 subsection, the department shall notify in writing the long-term care
94 facility to which the person has applied for admission as a resident (A)
95 of any disqualifying offense and any information the person provided
96 to the department regarding mitigating circumstances surrounding
97 such offense, or of the lack of a disqualifying offense, and (B) whether
98 the department granted a waiver pursuant to subdivision (3) of this
99 subsection.

100 (e) No long-term care facility shall admit as a resident a person
101 required to submit to a background search if the long-term care facility
102 receives notice from the Department of Public Health that the person
103 has a disqualifying offense in the person's background search and the
104 department has not granted a waiver pursuant to subdivision (3) of
105 subsection (d) of this section. A long-term care facility may, but is not
106 obligated to, admit as a resident a person who was granted a waiver
107 pursuant to said subdivision.

108 (f) (1) Except as provided in subdivision (2) of this subsection, a long-
109 term care facility shall not admit as a resident any person required to
110 submit to a background search until the long-term care facility receives
111 notice from the Department of Public Health pursuant to subdivision (4)
112 of subsection (d) of this section.

113 (2) A long-term care facility may admit as a resident a person
114 required to submit to a background search on a conditional basis before
115 the long-term care facility receives notice from the department that such
116 person does not have a disqualifying offense, provided the following
117 conditions have been met: (A) The period of residency on a conditional
118 basis shall last not more than sixty days, except the sixty-day time
119 period may be extended by the department to allow for the filing and
120 consideration of a written request for a waiver of a disqualifying offense
121 filed by a person pursuant to subsection (d) of this section, (B) the long-
122 term care facility has begun the review required under subsection (c) of
123 this section and the person has submitted to a background check
124 pursuant to subsection (c) of this section, (C) the person is subject to
125 constant supervision by staff of the long-term care facility during the
126 course of such conditional residency period, and (D) the person, in a
127 signed statement (i) affirms that the person has not committed a
128 disqualifying offense, and (ii) acknowledges that a disqualifying offense
129 reported in the background search required by subsection (c) of this
130 section shall constitute good cause for removal from residency and a
131 long-term care facility may remove the person from residency if a
132 disqualifying offense is reported in such background search.

133 (g) Records and information with respect to any person that are
134 obtained by the Department of Public Health pursuant to this section
135 shall not be subject to disclosure under section 1-210 of the general
136 statutes.

137 (h) The Commissioner of Public Health shall adopt regulations, in
138 accordance with the provisions of chapter 54 of the general statutes, to
139 implement the provisions of this section. The commissioner may
140 implement policies and procedures consistent with the provisions of
141 this section while in the process of adopting such policies and
142 procedures as regulation, provided the commissioner shall publish
143 notice of intention to adopt regulations on the eRegulations System not
144 later than twenty days after the date of implementation. Such policies
145 and procedures shall be valid until the time final regulations are
146 effective.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	New section

Statement of Purpose:

To require long-term care facility residents to undergo a criminal history and sexual offender registry search.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]