



# INVENTORYING EMPLOYMENT RESTRICTIONS TASK FORCE FINAL REPORT

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*Submitted to the Illinois Office of the Governor and the Illinois General Assembly  
June 28, 2013*

# **Inventorying Employment Restrictions Task Force Final Report**

## **Acknowledgements**

The Task Force would like to acknowledge the efforts and participation of the many individuals and organizations who contributed valuable input and guidance in its work.

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ILLINOIS  
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300 W. Adams Street • Suite 200 • Chicago, Illinois 60606 • (312) 793-8550

June 28, 2013

To the Honorable Members of the General Assembly:

Illinois Public Act 96-0593, originally signed in 2009 and amended in 2012 (20 ILCS 5000), created the Task Force on Inventorying Employment Restrictions and called for the work to be conducted within the Illinois Criminal Justice Information Authority. The legislation provides that the Task Force review the statutes, administrative rules, policies, and practices that restrict employment of persons with criminal history and report its findings and recommendations to the Governor and General Assembly by July 1, 2013.

In response to that legislative mandate, we are pleased to announce online access to the ***Final Report of the Task Force on Inventorying Employment Restrictions***. This report may be viewed and downloaded at [www.icjia.org/IERTF2013](http://www.icjia.org/IERTF2013).

Gainful employment after release from prison is one of the critical elements necessary to achieve successful reentry, and employment has been shown to reduce recidivism. It is our expectation that the information and recommendations in this report will help inform members of the General Assembly of measures that can empower the State's agencies, boards, and commissions to assume a leadership role in providing employment opportunities to people with criminal records while guarding against inappropriate discrimination and yet retaining for employing agencies and those charged with the responsibility of issuing licenses or certifications the broadest appropriate degree of professional discretion. Legislative actions that cause State hiring and licensing bodies to review and revise their employment and licensure policies and practices consistent with our recommendations, and identify barriers to employment and licensure that can safely and responsibly be removed, will help accomplish this goal.

Sincerely,

Jeffrey A. Shuck  
Deputy General Counsel (Personnel)  
Central Management Services  
Task Force Chair

Jack Cutrone  
Executive Director  
Illinois Criminal Justice Information Authority  
Task Force Member



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300 W. Adams Street • Suite 200 • Chicago, Illinois 60606 • (312) 793-8550

June 28, 2013

The Honorable Pat Quinn  
Governor of Illinois  
State House 207  
Springfield, IL 62706

To Governor Pat Quinn:

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Gainful employment after release from prison is one of the critical elements necessary to achieve successful reentry, and employment has been shown to reduce recidivism. It is our expectation that the information and recommendations in this report will help inform the Office of the Governor of measures that can empower the State's agencies, boards, and commissions to assume a leadership role in providing employment opportunities to people with criminal records while guarding against inappropriate discrimination and yet retaining for employing agencies and those charged with the responsibility of issuing licenses or certifications the broadest appropriate degree of professional discretion. Executive branch actions, perhaps in tandem with legislative efforts, that cause State hiring and licensing bodies to review and revise their employment and licensure policies and practices consistent with our recommendations, and identify barriers to employment and licensure that can safely and responsibly be removed, will help accomplish this goal.

Sincerely,

Handwritten signature of Jeffrey A. Shuck in black ink.

Jeffrey A. Shuck  
Deputy General Counsel (Personnel)  
Central Management Services  
Task Force Chair

Handwritten signature of Jack Cutrone in brown ink.

Jack Cutrone  
Executive Director  
Illinois Criminal Justice Information Authority  
Task Force Member

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## I. Executive Summary

Illinois Public Act 96-0593, originally signed in 2009 and amended in 2012 (20 ILCS 5000), created the Task Force on Inventorying Employment Restrictions Act and called for the work to be conducted within the Illinois Criminal Justice Information Authority. The legislation provides that the Task Force review the statutes, administrative rules, policies, and practices that restrict employment of persons with criminal history and report its findings and recommendations to the Governor and the General Assembly by July 1, 2013.

The challenge of promoting public safety by balancing the need to increase employment for ex-offenders while responsibly restricting employment where appropriate is reflected in the purpose section of the enabling legislation for the Task Force:

*The General Assembly finds and declares that:*

*(1) public safety dictates the adoption of employment restrictions to protect vulnerable populations, to prevent the risk of loss and liability, and to minimize the likelihood of harm to the public, fellow employees and customers;*

*(2) gainful employment after release from prison is one of the critical elements necessary to achieve successful reentry after prison and that employment has been shown to reduce recidivism;*

*(3) to make our communities safer, public safety also requires that employment opportunities not be so restricted that people with criminal records are unable to engage in gainful employment;*

*(4) many State laws and policies impose restrictions on the employment of persons with criminal records including State government jobs, jobs in State-licensed, regulated and funded entities, and jobs requiring State certification;*

*(5) no comprehensive review of these restrictions has been undertaken to evaluate whether the restrictions are substantially related to the safety, trust and responsibility required of the job or to the goal of furthering public safety;*

*(6) a less restrictive approach is preferred if it both furthers public safety and preserves employment opportunities; and*

*(7) the State's agencies, boards, and commissions can assume a leadership role in providing employment opportunities to people with criminal records by reviewing their employment policies and practices and identifying barriers to employment that can safely be removed to enable people with criminal records to demonstrate their rehabilitation.*

Each of the 72 state agencies named in the legislation was required to submit a description of its employment restrictions based on criminal records, and data pertaining to the impact of those restrictions. These employment restrictions were to be described for positions within the state agency; for employment in facilities licensed, regulated, supervised, or funded by the agency; for employment pursuant to contracts with the

agency; and for employment in occupations that the agency licenses or provides certifications to practice – as applicable within each agency.

ICJIA staff developed an Inventorying Employment Restrictions Task Force (IERTF) website (<http://www.icjia.org/IERTF/>) containing a section with all information pertaining to Task Force meetings agendas, minutes and handouts. A second section contains all the documentation received by the state agencies, including summary documents.

During the course of its work in assessing the impact of restrictions on persons with criminal records, the IERTF often referenced the guidance for the published by the U.S. Equal Employment Opportunity Commission (EEOC), which ultimately served as a foundation for many of the recommendations.

To facilitate the work of the Task Force, three work groups were created in each of the key topic groups related to the statutory charge. The State Hiring Work Group reviewed procedural aspects of how state agencies screen and hire job applicants. The State Licensing Workgroup reviewed restrictions documentation from the Illinois Legislative Research Unit and the American Bar Association to help summarize occupational licensing procedures. The Human Rights Work Group studied the federal EEOC guidelines and their application for hiring and licensing in Illinois. Each of the work groups produced a set of recommendations, which were approved by the full Task Force and incorporated into the final set of IERTF recommendations. The individual work group recommendations appear in Appendix B.

## IERTF Final Recommendations

### Introduction

Because African Americans and Hispanics are incarcerated at disproportionate rates compared to the general population, we endorse the Equal Employment Opportunity Commission (EEOC) position that “blanket” restrictions based on criminal history – whereby any previous conviction serves as a disqualification regardless of other factors – can create a **disparate impact** on employment. This occurs when an employer’s neutral policy or practice has the effect of disproportionately screening out a group protected under Title VII of the Civil Rights Act of 1964, based on an individual’s race, color, religion, sex, or national origin. We additionally endorse EEOC guidance on how to consider an individual’s criminal history in a way that does not risk disparate impact. *EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* promotes the following employment principles:

- a) Applicants should be given individualized consideration for opportunities;
- b) Applicants’ records should also be considered through the lens of “business necessity” which weighs the applicants’ record, the amount of time that has passed since the

offenses took place, and the relatedness of the offenses to their fitness or ability to perform the job's duties against the need for employers to have a safe work environment for all; and

c) Entities should reconsider whether lifetime bans to opportunities comport with the business necessity test noted above.

The following set of recommendations contains several proposals that may be voluntarily adopted, and others that require policy actions by the Illinois General Assembly and the Illinois Office of the Governor.

#### **Criminal history self-disclosure**

1. The State of Illinois should expand the Illinois Human Rights Act, and adopt the EEOC recommendation that for state hiring purposes, "employers not ask about convictions on job applications and that if and when they make such inquiries, they be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity." Therefore, we endorse removing any inquiry into the applicant's criminal history from the current CMS100 application. Similarly, agencies, boards, and commissions filling positions not under the Personnel Code shall remove any inquiry into the applicant's criminal history on employment applications.
2. Each agency, board, and commission may elect to use a criminal records self-disclosure form as a part of its hiring process. Each agency, board, and commission that elects to use such a self-disclosure form shall adhere to a statewide policy that permits the disclosure form to be requested and considered only after the point at which a candidate's other qualifications for a specific position are being considered.

#### **Criminal history background checks**

3. Each agency, board and commission shall adopt an "Authorization for Release" form that requests an applicant's permission to obtain information relating to their criminal history. "Authorization for Release" forms shall exclude any reference to criminal records self-disclosure.
4. If criminal history background checks are conducted, unless otherwise specified under statute or administrative rule, the Illinois State Police statutory and administrative procedures for conducting Uniform Conviction Information Act (UCIA) checks shall be followed by state agencies, boards, and commissions to ensure that an applicant's permission is received for that background check, that criminal history transcripts can be included as part of a nexus review, that the applicant has an opportunity to review the transcript, and that he or she has an opportunity to challenge or correct his or her record.
5. Each state agency, board and commission shall adhere to a statewide policy that will permit criminal background checks to be requested and considered only after the

point at which a candidate's other qualifications for a specific position are being considered. Once a criminal background check is received, the respective agency, board or commission shall determine whether there is a nexus between the position to be filled and the candidate's criminal history. State agencies, boards, and commissions shall not inquire into, nor use the fact of an arrest or a criminal record that has been ordered expunged, sealed or impounded in the nexus review unless otherwise authorized by law.

#### **Consideration of applicant's criminal history**

6. Each agency, board, and commission shall establish a documented nexus review process for the evaluation of candidate's criminal record information. The review process shall only exclude a candidate relative to his/her criminal history where it is determined that exclusion is job-related and consistent with business necessity, including but not limited to:
  - Nature and gravity of the offense
  - Time that has elapsed since the conviction and/or completion of sentence; and
  - Nature of the job being sought
7. All state agencies, boards, and commissions shall develop a process by which the applicant is informed that he or she may be disqualified for the specific position applied for due to his or her past criminal convictions, and will provide to the applicant a copy of his or her criminal background check. CMS shall modify the CMS 100 to include an email contact section. Similarly, non-personnel code agencies, boards, and commissions that do not use the CMS Application shall include an email contact section in their employment application.

#### **Publication of agency restrictions and review procedures**

8. All state agencies, boards, and commissions shall initiate an internal review of all licensure requirements and determine whether existing restrictions are based on job-related criteria consonant with business necessity. Each agency, board, and commission shall report back to the General Assembly all existing restrictions and corrective measures within 90 days after completing its internal review.
9. All state agencies, boards, and commissions shall create, implement, and make publicly available their internal administrative review process. The applicant shall be provided an opportunity to demonstrate that the restriction should not apply to him or her, and to provide relevant information that may impact the agency, board, or commission's determination regarding the disqualification. The administrative review decisions shall be made by committees comprised of no less than three staff members. The hiring process may proceed during the pendency of the nexus review.
10. All state agencies, boards, and commissions shall make physically and electronically available to the public information which clearly identifies requirements and any job

restrictions related to criminal history specified in statute, administrative rule, or agency policy, as well as any administrative review rights. That information shall also be posted on the State of Illinois website.

**Resources for individual applicants**

11. An Illinois Reentry Employment Resource Center shall be created within state government to serve as a resource to all state agencies and persons with criminal records regarding licensure and employment. Each state agency, board, and commission shall designate liaisons to work with the Center to resolve agency-specific hiring and licensure inquiries. The Center should be comprised of legal and human resources professionals who can provide guidance to persons with criminal records, request pertinent information from agencies, boards, and commissions, and answer procedural questions.
12. The Illinois State Police shall establish a help desk phone line for individuals who seek resource assistance for the purpose of understanding Illinois State Police issued criminal record documents.

**Resources for hiring and licensing agencies**

13. Each agency, board, and commission shall conduct annual training of all human resources department staff and hiring managers on its state hiring policies for individuals with criminal records.
14. Explore the viability for future studies to determine the outcomes of decisions to hire or license persons with criminal records.

## **II. Task Force Objectives**

### **Legislative intent of the Inventorying Employment Restrictions Act**

Public Act 96-0593, originally signed in 2009 and amended in 2012 (20 ILCS 5000), created the Task Force on Inventorying Employment Restrictions Act and calls for the inventory to be conducted within the Illinois Criminal Justice Information Authority. The bill provides that the Task Force review the statutes, administrative rules, policies, and practices that restrict employment of persons with criminal history and report its findings and recommendations to the Governor and General Assembly by July 1, 2013.

The challenge of promoting public safety by balancing the need to increase employment for ex-offenders while responsibly restricting employment where appropriate is reflected in the purpose section of the enabling legislation for the Task Force:

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*(6) a less restrictive approach is preferred if it both furthers public safety and preserves employment opportunities; and*

*(7) the State's agencies, boards, and commissions can assume a leadership role in providing employment opportunities to people with criminal records by reviewing their employment policies and practices and identifying barriers to employment that can safely be removed to enable people with criminal records to demonstrate their rehabilitation.*

### **Scope of work**

The Inventorying Employment Restrictions Task Force (IERTF) was comprised of the directors (or designees) of 13 state agencies, along with members of the General

Assembly (2 from each caucus), and a chairman appointed by the Governor. The Task Force was created in, and staffed by, the Illinois Criminal Justice Information Authority.

The objectives and scope of work for the Task Force, as enumerated in the enabling statute (20 ILCS 5000) were centered on reviewing statutes, administrative rules, policies and practices that restrict employment of persons with a criminal history, and reporting to the Governor and the General Assembly those restrictions and their impact on employment opportunities for people with criminal records. Further, the Task Force was to identify any employment restrictions that are not reasonably related to public safety.

Each of the 72 state agencies, boards and commissions named in the legislation was required to submit two reports to the Task Force. The first was a description of employment restrictions based on criminal records. These employment restrictions were to be described for positions within the state agency, for employment in facilities licensed, regulated, supervised, or funded by the agency, for employment pursuant to contracts with the agency, and for employment in occupations that the agency licenses or provides certifications to practice, as applicable within each agency. The second report was to summarize data pertaining to the impact of employment restrictions based on criminal records and effectiveness of case-by-case review mechanisms. The legislation itself provides a detailed description of the specific information that was required to be provided in each report.

The statutes and administrative rules related to employment were collated into categories called for by the IERTF Act. These include statutory restrictions related to: the state hiring process; occupational licensing, certification and regulation by state agencies; education and training required for state positions; non-occupational licensure that may be conditions of employment, such as the requirement that a candidate be qualified for a Firearms Owner ID (FOID) card in order to hold certain positions; military and law enforcement hiring processes; appointed officials within state agencies as a category of employment distinct from staff positions; and a few other miscellaneous categories. Staff then merged that information with documentation from the agency reports to obtain the most comprehensive view possible of Illinois employment restrictions.

In order to provide context for the various state statutes and administrative codes restricting state employment and occupational licensing, and to provide a more complete picture of each of the state agency hiring and licensing processes, staff developed a standardized template for each state agency enumerated in the Inventorying Employment Restrictions Act. Once all the agency fact sheets were completed, staff compiled the statutory, regulatory and agency policy restrictions on both internal hiring and occupational licensing into one summary spreadsheet.

The Task Force met at least monthly from July 20, 2012 through June 24, 2013 to consider the various aspects of its statutory charge and to formulate its various recommendations. Speakers were invited to present information to the Task Force regarding the current processes for state agency hiring and licensing. At the request of the Task Force, a presentation was made by Tammi Kestel, Assistant Bureau Chief for the

Illinois State Police Bureau of Identification, to clarify the procedures that are in place for agencies to conduct criminal background checks. In addition, Task Force member and State Representative Mary Flowers invited ex-offenders to speak to the members on how the laws that have been passed over the years have impeded their efforts to seek and obtain employment.

The Task Force also invited Tanisha Wilburn, Senior Attorney Advisor for the Equal Employment Opportunity Commission (EEOC) to advise them on Commission policies regarding use of criminal records in hiring decisions. The EEOC updated a guidance document in 2012, and so the presentation focused on these updates. The EEOC document is found in Appendix A. To place into better perspective the applicability of the guidelines for Illinois, ICJIA staff produced additional tabulations of disproportionate minority contact at the arrest and incarceration stages of the criminal justice system, which are included in this report.

ICJIA staff developed an Inventorying Employment Restrictions Task Force (IERTF) website (<http://www.icjia.org/IERTF/>) containing a section with all information pertaining to Task Force meeting agendas, minutes and handouts. A second section contains all the documentation received by the state agencies, including a summary document for quick reference by the work groups as they began their information gathering and synthesis process.

### **Work group duties and assignments**

To facilitate the work of the Task Force, three work groups were created in each of the key topic areas, each chaired by a Task Force member. While four groups were initially formed, the Education work group was eventually subsumed by the State Hiring and Licensing work groups. The State Hiring Work Group reviewed procedural aspects of how state agencies screen and hire job applicants. The State Licensing Workgroup reviewed restrictions documentation from the Illinois Legislative Research Unit and the American Bar Association to help summarize occupational licensing procedures. The Human Rights Work Group studied the federal EEOC guidelines and their application for hiring and licensing in Illinois. Each of the work groups produced a set of recommendations, which were approved by the full Task Force and incorporated into the final set of IERTF recommendations. The individual work group recommendations can be found in Appendix B.



### **III. Background**

Many of those with criminal records experience the consequences of their criminal justice system involvement for years afterwards. These so-called “collateral consequences” of criminal involvement may include restrictions on eligibility for public assistance such as housing and food stamps, limits on educational loans and eligibility for adoption of children. Perhaps of greatest consequence, however, are the restrictions placed on employment opportunities. Legislation exists at both the federal and state levels precluding hiring people convicted of certain crimes into a variety of occupations, and preventing the attainment of licensure to practice an estimated 800 additional occupations. In many cases, blanket provisions mean that non-violent, first-time offenders are subject to the same restrictions as hardened criminals. Despite efforts to justify exclusionary laws in terms of public safety, a number of commentators have pointed out that such policies are, in fact, more likely to lead to increased recidivism.

#### **Employment restrictions**

Job seekers with criminal convictions on their records face numerous obstacles to obtaining employment. They may have substance abuse problems or lack the education, training, or physical or mental health required for successful applications. Those ex-offenders who succeed in overcoming such obstacles and those who had highly marketable skills prior to their convictions may still face legal barriers to meaningful employment. Ex-felons may also face legal obstacles in obtaining occupational licenses required for a vast array of jobs, many of which do not require a high level of education or training. Some examples of regulated occupations include: ambulance drivers, school bus drivers, child care workers, attorneys, pharmacists, nurses, barbers, embalmers, real estate professionals, accountants, contractors, and sellers of alcoholic beverages<sup>1</sup>.

#### **Employer perspectives**

In many states, including Illinois, employers can be held liable for the criminal actions of their employees committed during the scope of employment<sup>2</sup>. Employers who need to fill positions where close employee monitoring is impractical may place a premium on trustworthiness and may have little confidence in ex-offenders.

Some studies, using employer-based surveys, examined employer willingness to hire ex-offenders and the characteristics of firms that run background checks, how and when these checks are performed, and whether they increased over time<sup>3</sup>. The evidence from

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<sup>1</sup> May, Bruce E., “The Character Component of Occupational Licensing Laws: A Continuing Barrier to the Ex-felon’s Employment Opportunities”, 71 N.D. L. Rev. 187 (1995).

<sup>2</sup> Bushway, Shawn D. 1998. “The Impact of an Arrest on the Job Stability of Young White American Men.” *Journal of Research in Crime and Delinquency* 35 (4): 454–79.

<sup>3</sup> Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2007. “The Effect of an Applicant’s Criminal History on Employer Hiring Decisions and Screening Practices: Evidence from Los Angeles.” Pp. 117–50 in

this research shows, unsurprisingly, that employer aversion to ex-offenders is high, and that firms that check backgrounds are larger in industries that have more customer contact such as in retail trade and service, are increasing over time, and are conducted mostly through private sources.

## **Role of the Equal Employment Opportunity Commission**

An official from the Equal Employment Opportunity Commission (EEOC) presented to Task Force members on *The EEOC Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as Amended, 42 U.S.C. 2000e et seq.* The EEOC is a federal agency created in 1964 to end discrimination in employment based on race, color, religion, sex, or national origin. The Commission has updated its Enforcement Guidance on the consideration of arrest and conviction records in employment decisions under Title VII of the Civil Rights Act of 1964, and her presentation focused on these updates.

One recurring question is why the use of criminal history information is a civil rights issue. While having a criminal background is not a protected factor under Title VII of the Civil Rights Act, there are two ways in which use of that information by employers can violate the statute. The first is disparate treatment discrimination, and the second is disparate impact discrimination.

*Disparate treatment discrimination* is where employers treat applicants differently because of any of the protected characteristics under Title VII of the Civil Rights Act – race, color, religion, sex or national origin. Such discrimination would be evident in a scenario where a minority applicant with a criminal background was denied employment, and white candidate with a similar criminal background and job qualifications was hired instead. Disparate treatment based on race would also be evident if an employer allowed a white applicant to explain their criminal background, but did not afford a minority candidate the same opportunity. A third scenario is where an employer automatically assumes the minority applicant has a criminal background (based on stereotypes, not actual facts), and rejects them on that basis.

The second way employers can violate Title VII is through *disparate impact discrimination*. If the employer has a ‘neutral’ policy on using criminal history record

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*Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by S. Bushway, M. Stoll, and D. Weiman. New York: Russell Sage Foundation.

Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2004. “Will Employers Hire Ex-Offenders? Employer Perceptions, Background Checks, and Their Determinants.” Pp. 205–46 in *Imprisoning America: The Social Effects of Mass Incarceration*, edited by Mary Patillo-McCoy, David Weiman, and Bruce Western. New York: Russell Sage Foundation.

information (screening everyone that applies), and the screening is not linked to actual job duties, then this blanket policy can have the impact of disproportionately screening out persons protected under Title VII. Such blanket policies may include such statements that all applicants need to be “conviction free”, or that a felony conviction, no matter the charge, is an automatic disqualification. These blanket policies can disproportionately affect minority candidates (protected under Title VII), since they are more likely to have a criminal history, due to documented disproportionate minority contact (DMC) with the criminal justice system.

However, just because the employer’s policy on the use of criminal history information has a disparate impact, does not automatically mean it is in violation of Title VII. If the employer can show that the policy is related to the job duties (business necessity standard), it may not be in violation. There are two ways that employers can meet the business necessity standard, as documented in the EEOC Guidance: 1) validation under the Uniform Guidelines on Employee Selection Procedures, if relevant data are available and validation of the effectiveness of the policy is possible; and 2) developing a targeted screen that is supplemented by an individualized assessment.

A targeted screen concept was established in 1977 by an 8<sup>th</sup> Circuit court decision in the case *Green vs. Missouri Pacific Railroad* (549 F.2d 1158). Screening policies or practices should consider at least three factors that have come to be termed the “Green” factors: 1) the nature and gravity of the offense, 2) the time elapsed since the offense occurred or sentence was completed; and 3) the position being sought.

The EEOC Guidance offers more information on each factor of the targeted screen. Information to be considered under the first factor (nature of the offense) is what harm was caused by the underlying criminal conduct, what were the legal elements and behaviors of the crime, such as threat, intimidation or deception, and what the seriousness of the offense was (misdemeanor vs. felony), as indicated by the sentence received.

Information to be considered under the second factor (time elapsed) cannot be standardized, as it will depend on business necessity. Some employers may want persons newly released from prison and still under community supervision, as an independent mechanism for employee scrutiny and surveillance. Other employers will want to see evidence of rehabilitation before deeming the applicant eligible for a position. In general, permanent lifetime bans (“forever rules”) based on any or all offenses do not meet Title VII business necessity standard. Further, social science research is beginning to document that the longer time has elapsed without further criminal involvement; the probability of a new offense becomes no greater than any other citizen that was never involved in the criminal justice system. However, EEOC does not endorse a certain time limit that is appropriate for all employers to use.

Information that can be considered regarding the third factor (position sought or held) includes the job title, the duties and responsibilities, the job’s essential functions, and the circumstances and environment in which those job duties will be performed. Aspects of the job duties, such as performance under minimal supervision or with vulnerable

populations, will be important in determining if the prior criminal conduct in question is relevant. All of the three factors of the targeted screen should be balanced in making a determination of candidate eligibility based on criminal background, in order to meet the EEOC business necessity standard.

If employers want to ensure that they are acting on the most complete and accurate information, they are encouraged to go a step further and do an individualized assessment process. There are two phases to this process: 1) notifying the candidate that they may be excluded from the position because of their past criminal conduct, as identified by the targeted screen; and 2) providing the candidate with an opportunity to explain and offer any mitigating information.

The information about mitigating circumstances should address *risk* that the employer faces. This might include that the criminal history information is inaccurate, meaning that the criminal conduct did not even occur, or that the criminal history information did not provide a complete picture of what actually happened. Another example would be if the candidate could show that they had performed similar job duties for another employer without incident, or other proofs of rehabilitation, such as employer or character references. In the private sector, evidence of good job performance despite a criminal record may be available in instances where a new owner performs background checks on long-standing employees under the prior management, and discovers old criminal events that have no bearing on current job performance or responsibilities.

The EEOC Guidance provides some best practices. These include the elimination of across-the-board exclusions based on the mere existence of a criminal background; developing narrowly tailored policies and procedures for applicant screening and determining business necessity; training hiring managers in Title VII requirements and hiring policies that are consistent with those requirements; and limiting inquiries to criminal history records that are related to job duties, legal mandates and established business necessity. Another best practice is to inform employees and potential candidates about the hiring policies, so that they can make effective use of its provisions.

There is no mandate for employers to understand the implications of Title VII in terms of their employment practices, although employers remain at risk for liability from any Title VII violations, whether they were aware of the law or not. Further, there is nothing mandating employers to be in compliance with the specific EEOC standards. The EEOC conducts its investigation once a charge is filed.

Concerning a case of an individual applying for a highly responsible job (working with sensitive information, or a vulnerable population) who does not have a conviction specifically related to any one job duty, but has a lengthy history of frequent convictions for some unrelated offenses, a pattern of behavior could be a consideration in the targeted screen or individualized assessment, but the seriousness of the offenses should also be considered, not just the frequency. Frequent convictions may indicate an underlying mental health or substance abuse issue that would relate to being considered the best qualified candidate for the job itself. EEOC considers compliance with Title VII to be a

balancing act between the business needs of the employer and the right of the individual to fair treatment in terms of obtaining or retaining employment.

The EEOC official suggested that employers should only use certain kinds of criminal history records to make employment decisions. In most cases, employers are discouraged from using arrest records. These records are unreliable for several reasons. They are not a proof of criminal conduct, merely an allegation; they may be incomplete in terms of final outcome of that arrest; and, they may be inaccurate as to the information and pertain to a different individual with the same or similar name. Further, the records may have been sealed or expunged and should not have been available to the employer at all.

If an employer is going to use an arrest record in making an adverse employment decision, they should focus on the underlying conduct of the criminal event determine and whether it relates directly to the job or makes that person unsuitable for the job. That would hold for all adverse employment decisions – not hiring, suspending someone who already holds a job, or firing them.

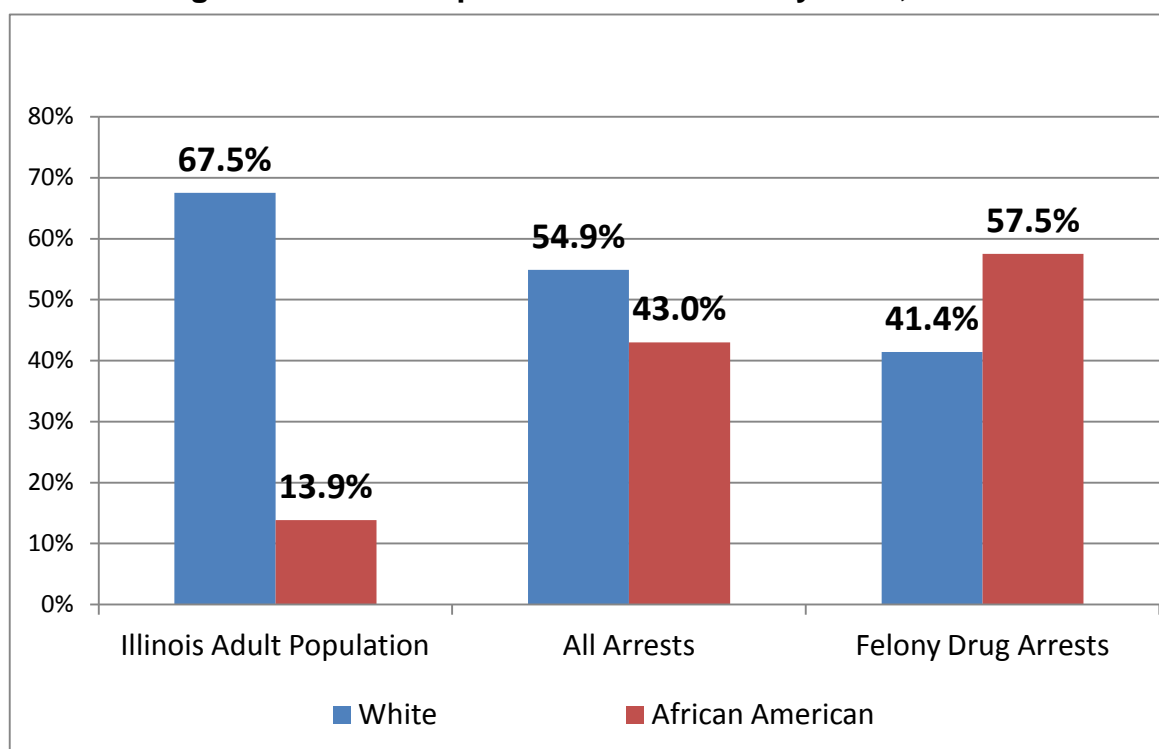
The second type of criminal history record used by employers is conviction information. This is generally more reliable information as proof of the underlying criminal conduct, because of the due process afforded during the criminal justice process. Employers are still encouraged to be cautious. These records can also be inaccurate, as when they pertain to a different individual or they can be outdated, such as those that have been sealed or expunged.

The EEOC Enforcement Guidance recommends that the best practice regarding use of conviction information in the selection process is to wait until later in the hiring process to consider such information in determining the eligibility of a candidate, and to limit their inquiry to convictions that are relevant to the particular job. This recommendation is based on research that shows that once an employer has deemed the candidate qualified for the position, they are more likely to objectively access any criminal history. The employer is more likely to give the candidate a chance to explain the incident, and consider that information in the context of the whole person.

### **Determining disparate impact in Illinois**

In Illinois, African Americans are arrested in numbers disproportionate to their representation in the state's general population. Based on 2010 the state's criminal history records information (CHRI) and the 2010 U.S. Census Data, 43.0% of all adult arrests were of African Americans, even though they only comprised 13.9% of the adult general population. In comparison, 54.9% of all adult arrests were of Whites, who made up 67.5% of the adult general population. The CHRI system does not differentiate Hispanics into a separate grouping. As a result, the number of arrested Hispanics cannot be compared to the State's Hispanic population.

**Figure 1: Illinois Population and Arrests by Race, 2010**



Source: Illinois Criminal Justice Information Authority interpretation of IDOC data and Illinois State Police criminal History Record Information arrest data. All information is for the Illinois adult (18 years and older) population.

**Table 1: Adult Arrests, 2010**

|       | 2010                 |                          |                         |                       |
|-------|----------------------|--------------------------|-------------------------|-----------------------|
|       | Arrests <sup>4</sup> | Percent of Total Arrests | Population <sup>5</sup> | Percent of Population |
| White | 246,482              | 54.9%                    | 6,561,534               | 67.53%                |
| Black | 192,956              | 43.0%                    | 1,346,287               | 13.85%                |

The rate of disparate arrests among African Americans is larger when looking at drug arrests. In 2010, 50.8% of all arrests for a misdemeanor drug arrest charge were of African Americans, compared to 48.0% for Whites.

<sup>4</sup> Illinois Criminal History Records Information

<sup>5</sup> U.S. Census 2010

**Table 2: Arrests with Misdemeanor Drug Charges, 2010**

|       | 2010    |                          |            |                       |
|-------|---------|--------------------------|------------|-----------------------|
|       | Arrests | Percent of Total Arrests | Population | Percent of Population |
| White | 25,439  | 48.0%                    | 6,561,534  | 67.53%                |
| Black | 26,950  | 50.8%                    | 1,346,287  | 13.85%                |

The disproportionality for African Americans was greater for felony drug charges. Of all arrests associated with a felony drug arrest charge, 57.5% were African American compared to only 41.4% for Whites.

**Table 3: Arrests with Felony Drug Charges, 2010**

|       | 2010    |                          |            |                       |
|-------|---------|--------------------------|------------|-----------------------|
|       | Arrests | Percent of Total Arrests | Population | Percent of Population |
| White | 14,231  | 41.4%                    | 6,561,534  | 67.53%                |
| Black | 19,777  | 57.5%                    | 1,346,287  | 13.85%                |

Adult African Americans and Hispanics are incarcerated for new sentences at rates disproportionate to their numbers in the general adult population. Based on 2010 Illinois Department of Corrections (IDOC) data, African Americans were incarcerated at a rate approximately 8.8 times higher than Whites and Hispanics were incarcerated at a rate approximately 2.2 times higher than Whites. African Americans were incarcerated at a rate approximately 4 times higher compared to Hispanics.

**Table 4: Illinois Department Of Corrections New Sentence Admissions, 2010**

|          | 2010       |                             |            |                       |                        |
|----------|------------|-----------------------------|------------|-----------------------|------------------------|
|          | Admissions | Percent of Total Admissions | Population | Percent of Population | Admission Rate to Pop. |
| White    | 7,912      | 30.6%                       | 6,561,534  | 67.53%                | 1 out of 829           |
| Black    | 14,348     | 55.4%                       | 1,346,287  | 13.85%                | 1 out of 94            |
| Hispanic | 3,494      | 13.5%                       | 1,311,587  | 13.50%                | 1 out 376              |

Looking at the general population in 2010, approximately 1 out of every 829 White residents, 1 out of every 94 African American residents, and 1 out of every 376 Hispanic residents was sentenced to IDOC.

## **Testimony by ex-offenders regarding employment restrictions**

To further inform the disproportionate minority contact (DMC) issue, Task Force member and State Rep. Mary Flowers invited ex-offenders who had previously attended a hearing held by State Rep. LaShawn Ford, to learn how the laws that have been passed over the years have impeded the lives of those who have already served their time for crimes they have committed.

One speaker addressed the issue of the existence and wording of criminal history checkboxes on employment applications. There is no standardization on the length of time that the applicant needs to report on – 3 years prior, 7 years prior, or even forever (“Have you ever had a conviction in your past”). In his experience, if you check that box, you are never called for an interview. In most cases, that is reflection of the mindset of the employer/application screener. Some will see it as an automatic disqualifier, while others will give you an opportunity.

Another speaker addressed the high percentage of African-Americans who are released from prison each year and return in high concentrations to certain Chicago communities, such as Englewood, Lawndale, Austin, South Shore, where the rules prohibiting employment of ex-offenders are enforced to a much greater degree than in other areas of the city, which becomes discriminatory against African-Americans. This discrimination extends to the inability to obtain contracts for program funding to assist ex-offenders. There are organizations where ex-offenders are trying to obtain grant funds for programs aimed at preventing ‘next’ offenders, but their criminal backgrounds are a bar to being eligible for funding. That results in the situation where the programs being funded are those with boards of directors that have no experience with ex-offenders.



## **IV. The current role of criminal history background checks in state hiring and occupational licensing**

The Task Force and the State Hiring work group spent considerable time investigating the current role of applicants' criminal history information in the current state hiring process, in order to formulate recommendations for best practices in light of EEOC principles.

### **The overall state hiring process**

From the state agency perspective, the first step in filling a vacancy is confirming that there is funding available for the position, and whether the position is covered by a union contract. The language in the American Federation of State and Municipal Employees (AFSCME) union contract governs the majority of vacancies in state government. Besides AFSCME, the state has numerous other union contracts, including Teamsters and various other trade unions including bakers, barbers, carpenters, electricians, painters, and plumbers. Certain agencies, such as the Illinois State Board of Education, enter into their own contracts with the union.

Agencies under the jurisdiction of the Governor post their Rutan-covered vacancies on the Work.Illinois.gov website, which gives individuals the opportunity to see what positions are available. Current state employees have the right to bid on those job openings, and persons not currently employed by the state can apply for those jobs through the Illinois Department of Central Management Services (CMS). Other state entities may also post their positions on the Work.Illinois.gov website.

AFSCME-covered positions are typically posted for 10 work days. If the agency receives bids from current state employees, these are sorted according to language in the Master Union contract – based on seniority, job title, and work location. Those bids are further sorted by job assignments and shift preference, and whether there are any laid off workers subject to recall, promotion, transfer from another state agency with the same job title at the same pay grade. These bids must all be considered before candidates without bid rights can be considered. After employees with union contractual bid rights are considered, the agency can then move on to considering candidates from an open competitive eligible list or other candidates without bid rights, such as former certified employees seeking reinstatement.

### **The role of Central Management Services (CMS) in establishing eligible job candidates**

CMS is responsible for grading applications for job titles covered by the Personnel Code. Applicants receiving a passing grade are placed on an appropriate eligible list, which is then sorted by veteran preference status in alphabetic order. The first list received by an agency is the “blinded” list – candidates are identified only by race, gender, and coding for education and experience; their names are not included at this point. This is the list from which agencies identify applicants for the interview process.

The initial applicant testing of merit and fitness is handled by CMS for those positions under the jurisdiction of the Personnel Code (20 ILCS 415). This law provides the basis for the civil service merit system in Illinois. It embraces all positions of employment in the service of the state unless specifically excluded by legislation. It empowers the Director of CMS to promulgate Rules and carry out this law, and creates the Civil Service Commission to monitor its proper administration and to conduct hearings.

The Code consists of three jurisdictions: Jurisdiction A – Classification & Pay, which provides for a system of pay administration and position reporting and classification to assure that the work of employees is fairly compensated and consistent with the level and kind of job they perform; Jurisdiction B – Merit & Fitness, covering candidate testing and selection, certification, performance appraisal and discipline, and other merit practices for employees; and Jurisdiction C – Conditions of Employment, which deals with such things as vacation, holidays, sick time, grievance plans, and other provisions that establish a body of uniform personnel practices across agencies.

CMS covers more than 950 different job classifications across those positions subject to the Personnel Code. The classifications are somewhat general in that they often do not refer to a singly defined job type but to a set of jobs with varying responsibilities across, and sometimes within agencies, and are used in a variety of locations. It is important to note that CMS considers the effect of criminal history on suitability for employment only with respect to its own hiring.

Few Illinois laws or regulations actually bar employment of persons with criminal records. Those that do generally apply to jobs involving care of patients, children, and other sensitive populations. However, many state agencies select employees under the Personnel Code. Thus, provisions in that Code that touch on this subject may affect the initial hiring of employees in many agencies.

The CMS 100 form, titled “Examining/Employment Application”, is the standard application form that is used for positions under the Personnel Code. The question of interest to the Task Force is question 9.B., within the box in the middle of the form. Language in that box states: “If your answer to any of the following questions is “yes” please attach a signed, detailed explanation.” Question 9.B. then asks: “Have you ever pled guilty to or been convicted of any criminal offense other than a minor traffic violation?” This is the applicant's opportunity to express any facts and circumstances he or she would like to have considered, including statements and evidence of rehabilitation and suitability for the position sought.

It is incumbent upon the hiring agency to ask the candidate for a copy of his or her CMS 100 at the time of interview. It is up to that agency to make whatever use of the CMS 100 information, and information from the interview, as necessary, given the agency's internal requirements and restrictions. It is CMS' practice that a prior criminal background is not considered at the time of grading, but rather is to be considered by the

hiring agency in the context of its consideration of a candidate for a specific position of employment.

The box containing question 9.B. also contains language clarifying what should not be reported, specifically, those arrests and convictions that were sealed or expunged. Pursuant to Public Act 93-0211, effective January 1, 2004, (20 ILCS 2630/12(a)) and Public Act 93-0912, effective August 12, 2004, (705 ILCS 405/5-915(8a)), respectively, applicants seeking employment with the State of Illinois are not obligated to disclose an arrest or conviction record that has been expunged or sealed, nor an expunged juvenile record. Employers may not ask if an applicant has had records expunged or sealed. Neither Public Act applies to law enforcement agencies, the Department of Corrections, State's Attorneys or other prosecutors.

Regarding the statutory exemptions for expunged and sealed records, employment counselors for ex-offenders reported to the IERTF that there can be a problem of applicants interpreting and understanding the nuances of criminal history information, particularly the juvenile justice system which operates differently than the adult system. CMS has career counselors, whose job it is to work with candidates on deciding which jobs to apply for, based on their experience, training and interests. However, these counselors are not familiar with the disqualifications based on criminal history applicable in particular agencies or occupations.

CMS examiners check the CMS 100 for completeness when it is submitted, and if question 9.B. is not answered, the individual is given an "Incomplete" grade and the form is returned with instructions to complete whatever is missing. At this stage of the application process, the examiner does not review any explanation that may be provided in response to question 9.B. regarding a previous conviction. The purpose of the information on the CMS 100 is to determine the applicant's eligibility to sit for a qualifying exam, or in the case of certain titles not suited to a typical civil service exam, to determine if the candidate's information, particularly training and experience, meets the qualifications of the class. The applicant's CMS 100 information is retained at CMS, and is not forwarded to the agency seeking to hire along with the eligibility list. Again, a hiring agency who wishes to have the applicants' CMS 100 available at the time of interview must request that candidates bring their application to that interview.

Applicants who believe that provisions of the Personnel Code or Rules have been violated have recourse to the Civil Service Commission. The Civil Service Commission is created by the Personnel Code and granted authority to hear cases brought thereunder and order compliance with the Personnel Code and Rules. 20 ILCS 415/7a, and 10(9) and 10(13). Appeal of decisions by the Civil Service Commission is available pursuant to the Administrative Review Law. 20 ILCS 415/11a.

During the time of the Task Force's work, Rep. La Shawn Ford introduced legislation, HB1210, to eliminate Question 9.B. on the CMS 100. CMS worked with Rep. Ford on that issue, and a workable compromise was reached whereby the question would be

removed from the CMS application but could be asked by the hiring agency at a later point in the hiring process.

### **Eligibility for testing**

Personnel Rules Section 302.105 addresses the earliest stages of applicant eligibility establishment and pre-employment screening. The rules state that “agencies may implement programs for pre-employment screening of persons CMS has determined eligible under this Part.” Any such programs for pre-employment screening of eligibles, as well as the standards established by the appointing agency as a part of such screening, including but not limited to performance and/or job knowledge tests, may be implemented only after review and approval by the CMS Director. Procedures for routine reference verification and pre-employment background checking do not require prior approval of the CMS Director.

In determining whether pre-employment screening programs or substantive changes to previously approved programs should be approved, factors the CMS Director considers include job relatedness, compliance with federal or state statutes and regulations, the needs of the requesting agency and consistency with CMS examination programs.

Under Personnel Rules Section 302.130, there are six reasons listed in Part A for mandatory removal of names by CMS: where the person has already been hired off the list, where the candidate has died, where the candidate cheated on the civil service exam (which carries a typical penalty of one year of ineligibility to test for and appear on a list), where the candidate has been found to lack any qualifications required for the class for which he or she was erroneously declared eligible, where the candidate requests removal of his or her name, and where the postal authorities cannot locate the eligible at his or her last known address.

Reasons listed in Rule 302.130 Part B for optional removal of a name from an eligible list include: failure of the candidate to show up for his or her interview and refusal to accept two separate offers of employment. The factor applicable to the work of the IERTF is 302.130(b)13, “conviction of an eligible of a felony.” Hiring agencies can cite these discretionary bases in a request that CMS remove an eligible from a list. In addressing such requests, CMS considers the supporting reasons cited by the requesting agency and does not remove names from lists of its own accord. In regard to 302.130(b)13, (felony conviction of an eligible), this may come into play once an individual has already been offered employment at the hiring agency, and it becomes known that the person has a felony conviction. The Rule calls for notification to the applicant if he or she is removed from the eligible list. According to CMS officials, instances in which a candidate expressed a desire to appeal the removal of his or her name from a list are rare. There is no appeal provision in the Administrative Rule, but the individual may write to the Director of CMS asking for a review. For future employment, the applicant must re-test for the position title to begin the application process again. There is no bar to testing based on having been removed from an Eligible List (except for the reason of fraud on an exam). The reason for having been found ineligible at a particular agency may not hold for the same title at another agency, since restrictions can be agency-specific.

In addition, Section 8b.1 of the Personnel Code contains a provision intended to prevent applicants from being excluded from testing and subsequent appointment due to arrests not resulting in conviction for most misdemeanors. However, these provisions list certain specific misdemeanor offenses for which convictions may be considered disqualifying. The listing of those offenses can be found in Appendix C of this report. This provision does not explicitly authorize agencies to bar from state hiring persons with convictions of felonies, or of misdemeanors not specifically listed; but it may be read as implying that such persons can be discretionarily barred under the Personnel Code's grant of authority to use tests of "character" along with other criteria in state hiring. The Code goes on to say that if an individual is trying to qualify for a position which would give him/her the powers of a peace officer, any conviction or arrest record may be considered as a factor in determining their fitness for the position.

The statute, then, includes a list of misdemeanor crimes which can exclude a person from testing and employment. In practice, however, CMS chooses to exclude no one from testing, getting a grade, or being on an eligible candidate list, regardless of authority granted to do so in the Personnel Code. CMS leaves it up to the hiring agencies subject to the Personnel Code, and any other restrictions that apply to their specific positions, to determine if the criminal background of the candidate is somehow inconsistent with that position, and if that candidate remains the best candidate on the eligible list after a review of any past criminal background.

### **Non-Personnel Code agencies**

Even those organizations that maintain a separate personnel system realize the benefits of a consistent application of personnel policies and practices, and tend to follow and incorporate many provisions of the Personnel Code. Of the 72 state agencies, boards and commissions named in the IERTF legislation 22 are non-Personnel Code, and are listed in Appendix E.

The State Universities Civil Service Act, which covers all employees – including teachers and administrators – at all institutions of higher education in the state, including state universities and community colleges (Title 80; Chapter VI, section 250.60) is an example. The State Universities Civil Service System allows the employing institutions to establish registers for initial employment eligibility, as well as lists for promotion and for reemployment. The hiring institution, or "Designated Employer Representative" (DER) may consider a number of factors to refuse to examine an applicant, including the fact that "the applicant has committed an offense which, in the judgment of the DER, disqualifies him or her for employment." A criminal record does not necessarily disqualify the applicant. Each applicant's conviction record is evaluated on a case-by-case basis considering the type and seriousness of the crime, how much time has elapsed since the conviction, and the nature of the new employment position. Applicants seeking employment are not obligated to disclose records that are sealed or expunged. Each employer is required to have a policy to review disqualification actions, to notify the applicant of the disqualification, and provide a means for them to protest the action.

Similar to Section 8(b)(1) of the Personnel Code, three other merit employment codes that apply to employment by the Illinois Secretary of State, State Comptroller, and State Treasurer, each contain the same exclusions from testing as those found in the Personnel Code. The corresponding sentences in the merit employment codes for these three agencies have identical language as the Personnel Code – except that the latter two merit codes substitute “a position that entails financial responsibilities” for “a position which would give him the powers of a peace officer.” Each statute, then, includes a list of crimes which can exclude a person from testing and employment.

### **Screening processes for occupations subject to licensing and certification**

Several Illinois agencies have responsibilities for licensing and certification of respective occupations under their specific statutory jurisdiction. The Department of Public Health (DPH) has such jurisdictions for nursing homes and other areas of public health. One of the most significant sources of employment restrictions for the DPH is the Illinois Health Care Workers Background Check Act (225 ILCS 46). The law mandates that workers in nursing homes, home health agencies, renal disease facilities, and facilities that provide resident care and patient services have a background check conducted. The Act lists out a set of disqualifying offenses. If the background check reveals that an individual has a disqualifying offense, they cannot work in a direct-care capacity, such as daily living with residents or patients, for either nursing or personal care duties. The statute enumerates a long list of prohibitive offenses, mostly focused on violent crimes, and misappropriation of property, since these employees are dealing with sensitive patient medical and financial information. The law was enacted to protect the vulnerable populations who must rely on the care of others.

The statute does provide for a waiver process, and allows the agency to promulgate administrative rules that sets the procedures for such a process. A potential employee with a disqualifying offense in his or her background can petition the department for a waiver, which goes before a waiver committee (comprised of attorneys and other staff in the DPH health care regulation program). They review the “waiver packet” in which the applicant states the mitigating circumstances of his or her disqualifying background, including length of time since the offense. The packet undergoes an intensive evaluation. If the waiver is granted, it is entered in the DPH Health Care Worker Registry, so that potential employers can know that the applicant is now eligible for the position. Thus, the purpose of the statute is to offer protections for those under the care of DPH workers, while at the same time offering a means for those with criminal backgrounds to obtain gainful employment.

The Department of Public Health (DPH) Registry applies not just to DPH employees, but also to other agencies that employ health care workers. The Department of Human Services (DHS) also uses the DPH Registry for workers in its Community Integrated Living Arrangement (CILA) facilities, as well as other agencies that oversee and enforce the Health Care Workers Background Check Act.

Similar to the language contained in CMS, Secretary of State, Comptroller, and Treasurer merit code statutes that enable the removal of applicants from the initial eligibility pool based on certain criminal records, the State Universities Civil Services System may cite particular factors to refuse to examine an applicant, or after examination certain specific offense types may disqualify persons seeking teaching positions. If the applicant has committed an offense, which in the judgment of the Designated Employer Representative, disqualifies him or her for employment. For example, the applicant has a documented felony or misdemeanor conviction and the DER finds that a relationship exists between the bona fide occupational qualifications and the grounds for conviction. These codes pertain to the Illinois Board of Higher Education, Illinois Community College Board, several state universities.

The Illinois Board of Higher Education, for example, does not have any employment restrictions based on criminal records for employment within the agency, but does have restrictions on licensure for teachers. The IBHE is responsible for administering a statutory restriction at facilities it regulates. Pursuant the Private Business and Vocational Schools Act of 2012, the IBHE must consider the qualifications of governing board members, owners, and senior board administrators. “At minimum, these individuals must be of good moral character and have no felony criminal record.” 105 ILCS 426/35(1).

### **Illinois State Police (ISP) criminal background check process**

As part of their required submissions to the IERTF, some state agencies indicated they had been using the CMS-284 “Request for Release of Information” form to request pre-employment background checks. The front of that form provides areas for an applicant’s signature, to certify his or her authorization for a criminal background check, as well as spaces to record name, date of birth, and several other identifying fields to facilitate the background check. The back of the CMS-284 form asked applicants to indicate prior convictions for offenses more serious than minor traffic violations, similar to the CMS 100, as well as space to provide additional information regarding the circumstances of any convictions.

These forms, however, were intended as a mechanism to request investigative information on existing state employees and, as such, were routed to the ISP Division of Criminal Investigation (DCI). The response to agencies was a letter summarizing any discrepancies between information self-reported by the applicant and criminal records information obtained through the Law Enforcement Agency Data System (LEADS), used for criminal justice purposes. Just prior to the release of this report, ISP issued an advisory memo to agency officials indicating that this form should hereafter be used only for investigation of current employees, not pre-employment checks, and that agencies – if not otherwise authorized – should instead use the Uniform Conviction Information Act (UCIA) process. A copy of that memo appears in Appendix F.

UCIA (20 ILCS 2635) criminal history checks, have been available broadly to the general public since 1991. Illinois is a “closed record state”, meaning that, without separate statutory authority to the contrary, only conviction information on an individual may be

released by ISP. In “open record states”, such as Florida, all criminal history information, including arrests not leading to conviction, can be released.

The identifiers of the person on which a UCIA check is requested are not kept on the ISP database. The UCIA request returns an actual criminal history transcript rather than a DCI investigative response, and the results are not valid for more than 30 days. The agency requesting a UCIA check must keep the signature of the subject authorizing that check on file for two years, and the person subjected to the check must be given a copy of response from ISP in order to be able to contest any erroneous information. The fee for UCIA requests was \$16 for a name-based check at the time of this legislative report, and \$20 for a fingerprint-based check. Within seven working days of receiving the criminal history transcript, the individual applicant must notify the ISP Bureau of Identification as well as the requestor if the information furnished is inaccurate or incomplete.

Besides UCIA, another method for conducting background checks is the Fee Applicant record check process. 20 ILCS 2630/3(B) authorizes state agencies to submit fingerprints of employees, prospective employees, and license applicants to ISP for the purpose of obtaining conviction information maintained by ISP and the Federal Bureau of Investigation (FBI). ISP then submits the prints to the FBI on behalf of those agencies and charges an application fee based on actual costs. This process is always a fingerprint based check, and that print remains on file in the ISP database to be able to notify the requesting agency of any subsequent conviction for that individual. This future notification to the employer of a subsequent conviction is called the “revised response”, or Criminal Applicant (CAPP) response. This is possible because the State Police maintain a dissemination file against which subsequent arrest and convictions are run.

Individuals may challenge anything on that rap sheet. If a person wants to question something that appears, he or she should be referred by the hiring agency to the Illinois State Police to begin the Access and Review process. The instructions for that process are posted on the ISP website: [www.isp.state.il.us](http://www.isp.state.il.us).



## **V. Summary of state agency employment restrictions**

The Task Force on Inventorying Employment Restrictions Act (20 ILCS 5000) enumerated 72 state agencies boards and commissions from the three branches of state government. Each entity was to submit a report to the Task Force that described the employment restrictions that are based on criminal records for each occupation under the agency's jurisdiction, including employment within the agency (referred to in this report as internal state hiring), employment in occupations that the agency licenses or provides certification to practice (occupational licensing), and employment pursuant to contracts with the agency. All but two agencies, the Department of Natural Resources and the Illinois Medical District Commission, submitted reports to the Task Force. The agency submissions can be viewed on the IERTF website (<http://www.icjia.org/IERTF/>).

### **Collation of employment restrictions materials by ICJIA staff**

The original intent of the Task Force was to use the state agency reports as its primary source of information, but since many agencies sent in their reports well after the deadlines imposed by the IERTF Act, and in an effort to ensure a thorough inventory of information, the Task Force determined to make use of other reputable employment restriction information. Task Force member Sen. Tom Johnson requested that the Legislative Research Unit (LRU) compile a list of occupational licenses that are barred to persons with a felony record, and a similar list of mandatory restrictions pertaining to state agency positions. These documents can also be found on the IERTF website.

In addition, ICJIA staff obtained a compilation of over 600 Illinois statutes and administrative codes from the American Bar Association (ABA) as part of its National Inventory of Collateral Consequences of Conviction project (<http://www.abacollateralconsequences.org/>). However, the ABA project has a broader scope than the charge of the Task Force. The purpose of that project was to document the collateral consequences that currently exist in all 50 states, U.S. territories and at the federal level, in areas beyond state employment and occupational licensing, such as housing and civic participation. Therefore, staff needed to spend considerable time identifying which statutes of the 632 on that spreadsheet were related directly to employment restrictions. The initial review reduced that number down to 344 statutes related to the work of the Task Force.

The statutes related to employment were further collated into categories called for by the IERTF Act. These include statutory restrictions related to: the state hiring process; occupational licensing, certification and regulation by state agencies; education and training required for state positions; non-occupational licensure that may be conditions of employment, such as the requirement that a candidate be qualified for a Firearms Owner ID (FOID) card in order to hold certain positions; military and law enforcement hiring processes; appointed officials within state agencies as a category of employment distinct from staff positions; and a few other miscellaneous categories. Staff added information about any corresponding administrative codes to the spreadsheet, as well as information

from the agency reports, to obtain the most comprehensive view possible of Illinois employment restrictions.

### **State agency fact sheets**

In order to provide context for the various state statutes and administrative codes restricting state employment and occupational licensing, and to provide a more complete picture of each state agency hiring and licensing processes, staff developed a standardized template for each state agency enumerated in the Inventorying Employment Restrictions Act. The template, or Fact Sheet, has several sections. At the top is a description of the agency's function and headcount, as described in the Illinois Budget Book. This information is meant to provide context for the types of occupations that might be found in the agency, along with its size and state employment impact. For example, the Auditor General has a headcount of 144 staff, compared to over 3,000 for the Secretary of State. That size and diversity of official functions is reflected in the length of each agency fact sheet. For example, the Secretary of State fact sheet is over 20 pages, compared to the two pages needed to fully document employment restrictions for the Auditor General.

The next section of each agency fact sheet is its hiring authority, as a place to enumerate any internal hiring restrictions pertaining to the criminal history of potential employees. The language of any identified statutes or administrative codes is provided on the fact sheet. Another feature of the fact sheet is a summary of the report submitted by that state agency. In the case of the Auditor General, the hiring statute states that background checks may be conducted on job applicants at the discretion of the Director. However, the report to the Task Force stated that background checks are not being conducted at this time. This is an indication that the current Director is not exercising an option afforded by the statute. In this way, each piece of information on the fact sheet can provide context for the other.

Where applicable, there is also an occupational licensing, certification or regulation section of the fact sheet. Where an agency does not have that function, it will be clearly stated as such. For example, the Auditor General does not do any occupational licensing certification or regulation. It does, however, have the authority to enter into employment contracts with additional personnel to carry out its auditing function, in this case, certified public accountants. The contracting section of the fact sheet lists the statute that authorizes such contractual hiring, along with any criminal history-related restrictions on those contractual hires. That same information was added to any other agency that does contractual hiring, to make it easier to collate that information across agencies once all the fact sheets are completed.

The final section of the fact sheet is the summary of the agency's report to the task force, including any information provided on the number of job candidates that were subject to employment restrictions in the past two years.

Each of the 70 agency fact sheets is included in Appendix H. The fact sheets are also posted on the IERTF website (<http://www.icjia.org/IERTF/>).

### Summary sheet of state hiring and occupational licensing restrictions

Once all the agency fact sheets were completed, staff compiled the statutory, regulatory and agency policy restrictions on both internal hiring and occupational licensing into one summary spreadsheet, which allows for greater ease of information exploration and synthesis. Information is recorded for each agency regarding any applicable restricting statutes, triggering offenses, whether the restriction is mandatory or discretionary, and the duration of any imposed restriction, for both internal hiring and occupational licensing. In addition, the statute that governs the internal hiring process is listed (for example, the Personnel Code), along with the manner in which the agency obtains criminal history information on job candidates, as articulated in the agencies' reports to the Task Force. This summary spreadsheet can be found on the IERTF website (<http://www.icjia.org/IERTF/>).

### State agencies by functional category

In order to provide an organizational structure to the list of agencies named in random order in the IERTF legislation, the agencies were grouped by the functional categories used by the Illinois State Budget Book. Agencies in **bold font** are also involved in occupational licensure. (See Appendix G for the full list of licenses, certifications and permits with criminal history-based restrictions.) The functional categories include:

- **Economic Development/Infrastructure** = 13 agencies (18.6%); employing 8,187 staff in total
  - Department of Employment Security
  - **Department of Labor**
  - **Department of the Lottery**
  - **Department of Transportation**
  - Historic Preservation Agency
  - Illinois Arts Council
  - **Illinois Department of Agriculture**
  - Illinois Department of Commerce and Economic Opportunity
  - Illinois Finance Authority
  - Illinois Housing Development Authority
  - Illinois Medical District Commission (Did not submit a report to the Task Force)
  - Illinois State Board of Investment
  - Illinois State Toll Highway Authority
- **Education** = 7 agencies (10.0%); employing 836 staff in total
  - Illinois Board of Higher Education
  - Illinois Community College Board
  - **Illinois State Board of Education**

- Illinois Student Assistance Commission
- Illinois Teachers' Retirement System
- State Universities Civil Service System
- State Universities Retirement System
- **Environment and Business Regulations** = 11 agencies (15.7%); employing 3,415 staff in total
  - Department of Human Rights
  - Department of Natural Resources (Did not submit a report to the Task Force)
  - **Illinois Commerce Commission**
  - **Illinois Department of Financial and Professional Regulation**
  - **Illinois Environmental Protection Agency**
  - **Illinois Gaming Board**
  - Illinois Human Rights Commission
  - **Illinois Liquor Control Commission**
  - **Illinois Racing Board**
  - Illinois Workers' Compensation Commission
  - **Pollution Control Board**
- **Government Services** = 19 agencies (27.1%); employing 10,625 staff in total
  - Auditor General
  - Capital Development Board
  - Department of Central Management Services
  - Illinois Civil Service Commission
  - **Illinois Department of Revenue**
  - Illinois Educational Labor Relations Board
  - Illinois Labor Relation Board
  - Office of Appellate Defender
  - Office of Management and Budget
  - Office of State's Attorneys Appellate Prosecutor
  - Office of the Attorney General
  - Office of the Comptroller
  - Office of the Governor
  - Office of the Lt. Governor
  - **Office of the Secretary of State**
  - Office of the State Treasurer
  - Property Tax Appeal Board
  - State Board of Elections
  - State Retirement Systems
- **Human Services** = 10 agencies (14.3%); employing 20,348 staff in total
  - **Department of Children and Family Services**
  - Department of Healthcare and Family Services
  - Department of Human Services

- **Department of Public Health**
- Department of Veterans Affairs
- Guardianship and Advocacy Commission
- Illinois Council on Developmental Disabilities
- **Illinois Deaf and Hard of Hearing Commission**
- Illinois Department on Aging
- State of Illinois Comprehensive Health Insurance Plan
- **Public Safety** = 10 agencies (14.3%); employing 16,333 staff in total
  - **Department of Corrections**
  - **Department of Juvenile Justice**
  - Department of Military Affairs
  - Illinois Criminal Justice Information Authority
  - **Illinois Emergency Management Agency**
  - **Illinois Law Enforcement Training and Standards Board**
  - Illinois Prisoner Review Board
  - **Illinois State Police**
  - **State Fire Marshall**
  - **State Police Merit Board**

### **Summary of findings regarding internal hiring restrictions**

Using the summary spreadsheet, staff was able to collate the following information:

**Internal hiring: Agencies are under the Personnel Code or use CMS for some hiring some positions**

- No = 22 (31%)
- Yes = 48 (69%)

**Internal hiring restrictions: Does the agency have any statutory/regulatory restrictions, other than the Personnel Code (or equivalent statute)**

- Yes = 20 (28%)
- No = 48 (68%)
- No Report Submitted = 2 (3%)

**Internal hiring restrictions: Does the agency impose its own policy restrictions on positions, and review applicants' criminal history to determine suitability**

- Yes = 27 (38%)
- No statutory or policy restriction = 19 (27%)
- Policy for positions not restricted by law/rule = 12 (17%)
- Has statutory/rule restriction alone = 7 (10%)

- Report silent = 3 (4%)
- No report submitted = 2 (3%)

**Internal hiring: Does the agency require job applicants to self-disclose their criminal background on application materials**

- Yes = 42 (60%)
- No = 4 (6%)
- Report Silent = 24 (34%)
- No Report Submitted = 2 (3%)

**Internal hiring: Does the agency obtain criminal history information (other than self-report)**

- Yes, on the CMS 284 form = 20 (28%)
- Yes, Fingerprints to ISP = 6 (9%)
- Yes, Other agency investigation unit = 8 (11%)
- Yes, Name-Based = 6 (9%)
- Yes, Report silent on method = 16 (23%)
- No = 12 (17%)
- No report submitted = 2 (3%)

**Internal hiring: Restriction type**

- Mandatory = 19 (27%)
- Discretionary = 24 (34%)
- Has both mandatory and waivable offense list = 1 (1%)
- No applicable restriction = 20 (29%)
- Report silent = 4 (6%)
- No report submitted = 2 (3%)

**Mandatory hiring restrictions, based on statute or administrative rule**

As noted above, all but 12 of the 70 agencies conduct background checks on job candidates. However, only the following agencies were found to have some or all of their job positions mandatorily restricted by law or administrative rule due to a prior criminal history of the applicant. This assessment is based on state agency reports submitted to the Task Force and a review of applicable statutes and administrative codes. More details on the restrictions can be found on the individual State Agency Fact Sheets in Appendix H, and in the Summary of Employment Restrictions posted on the IERTF website (<http://www.icjia.org/IERTF/>).

**Table 5: Mandatory restrictions on internal state agency positions, by functional category**

| <b>Economic Development/Infrastructure Agencies (2) (Headcount: 1,285)</b>  |  |  |                                |
|---|--|--|--------------------------------|
| <b>Agency by functional category</b>  | <b>Restricted position</b>   | <b>Restriction</b>   | <b>Duration of restriction</b> |
| Department of Employment Security<br>(Headcount: 1,285)                     | Any position   | Conviction for unemployment insurance fraud  | No time limit                  |
| Illinois State Toll Highway Authority<br>(Headcount: Unknown)               | Inspector General  | Felony conviction  | No time limit                  |
| <b>Environment and Business Regulations Agencies (5) (Headcount: 2,354)</b> |  |  |                                |
| <b>Agency by functional category</b>  | <b>Restricted position</b>   | <b>Restriction</b>   | <b>Duration of restriction</b> |
| Illinois Commerce Commission<br>(Headcount: 275)                            | Transportation Compliance Program staff (equivalent to state troopers) | Felony conviction  | No time limit                  |
| Illinois Gaming Board<br>(Headcount: 220)                                   | Investigators (peace officers)   | Conviction of a felony or crime involving dishonesty/moral turpitude, failed drug test, or any falsification in the background process | No time limit                  |
| Illinois Liquor Control Commission<br>(Headcount: Unknown)                  | All positions  | Felony conviction, alcohol manufacture or sale conviction  | No time limit                  |
| Illinois Racing Board<br>(Headcount: 18)                                    | Board member   | Felony conviction  | No time limit                  |
| Illinois Dept of Revenue<br>(Headcount: 1,841)                              | Investigators (peace officers for enforcing tax law)                   | Felony conviction  | No time limit                  |
| <b>Government Services Agencies (5) (Headcount: 1,208)</b>                  |  |  |                                |
| <b>Agency by functional category</b>  | <b>Restricted position</b>   | <b>Restriction</b>   | <b>Duration of restriction</b> |
| Illinois Labor Relations Board<br>(Headcount: 29)                           | Attorneys  | Good moral character   | No time limit                  |
| Office of Appellate Defender<br>(Headcount: 239)                            | Attorneys  | Good moral character   | No time limit                  |
| Office of State's Attorneys   | Attorneys  | Good moral   | No time limit                  |

|   |  |  |                                    |
|---|--|--|------------------------------------|
| Appellate Prosecutor<br>(Headcount: 81)                             |  | character  |                                    |
| Office of Attorney General<br>(Headcount: 760)                      | Attorneys, investigators<br>(peace officers), medical<br>doctor  | Good moral<br>character for<br>attorneys; felony<br>conviction for peace<br>officers; conviction<br>of sex offense<br>involving patient for<br>doctors   | No time limit                      |
| Office of the Governor<br>(Headcount: 99)                           | Personal service positions<br>in Governor's Mansion:<br>Chefs, Butlers,<br>Housekeepers,<br>Horticulturalists, Banquet<br>Servers  | Service workers in<br>Governor's Mansion<br>subject to<br>background check<br>and disqualification<br>under authorization<br>of Executive<br>Protection Unit, to<br>protect elected<br>officials. No appeal<br>possible. | No time limit                      |
| <b>Human Services Agencies (4) (Headcount: 17,113)</b>              |  |  |                                    |
| <b>Agency by functional category</b>                                | <b>Restricted position</b>   | <b>Restriction</b>   | <b>Duration of<br/>restriction</b> |
| Department of Children and<br>Family Services<br>(Headcount: 2,848) | Child protection specialist,<br>child protection advanced<br>specialist, child welfare<br>specialist, child welfare<br>advanced specialist, public<br>service administrator<br>(direct service only) | Conviction of any<br>offense listed in<br>Child Care Act of<br>1969 (225 ILCS<br>10/4.2)   | No time limit                      |
| Department of Human Services<br>(Headcount: 12,665)                 | Mental health techs; Public<br>health Nurses Aides and<br>other direct service<br>positions; CDL drivers   | Health Care Worker<br>Background Check<br>Act (225 ILCS 46)<br>Offenses; DUI,<br>Cannabis, controlled<br>substances (for CDL<br>drivers)   | No time limit                      |
| Department of Veterans Affairs<br>(Headcount: 1,493)                | Licensed Practical Nurse I;<br>Licensed Practical Nurse<br>II; Physical Therapy Aide<br>II - Direct Care; Registered<br>Nurse I; Registered Nurse<br>II; Veterans Nursing<br>Assistant – Certified   | Health Care Worker<br>Background Check<br>Act (225 ILCS 46)<br>offenses  | No time limit                      |
| Guardianship and Advocacy<br>Commission<br>(Headcount: 107)         | Front-line staff (guardians)<br>working in Commission's<br>Office of State Guardian  | Felony conviction<br>involving harm or<br>threat to an elderly or<br>disabled person,  | No time limit                      |



|  |  | including a felony sexual offense.   |                                |
|--|--|--|--------------------------------|
| <b>Public Safety Agencies (4) (Headcount: 15,040)</b>                    |  |  |                                |
| <b>Agency by functional category</b>                                     | <b>Restricted position</b>   | <b>Restriction</b>   | <b>Duration of restriction</b> |
| Department of Corrections<br>(Headcount: 11,007)                         | Correctional officers, parole officers (considered peace officers) | Felony conviction  | No time limit                  |
| Department of Juvenile Justice<br>(Headcount: 1,058)                     | Correctional officers, parole officers (considered peace officers) | Felony conviction  | No time limit                  |
| Illinois Law Enforcement Training and Standards Board<br>(Headcount: 17) | Investigators (peace officers)                                     | Felony conviction, certain misdemeanors  | No time limit                  |
| Illinois State Police<br>(Headcount: 2,958)                              | Sworn state troopers   | Felony conviction, certain misdemeanors reportable to ISP Criminal History Record Information System | No time limit                  |

Source: Agency reports to the Task Force, review of applicable statutes and administrative codes

### **Implications of mandatory state hiring restrictions on future job opportunities**

As can be seen from the Table 5 above, not all government sectors (functional categories) have mandatory restrictions based on prior criminal history for internal state positions. The number and percent of agencies with any mandatorily restricted position can be summarized by functional category as follows:

- **Human Services:** 4 of 10 agencies (40%); employing 17,113 staff in total (not just mandatorily restricted staff)
- **Public Safety:** 4 of 10 agencies (40%); employing 15,040 staff in total (not just mandatorily restricted staff)
- **Environment and Business Regulations:** 5 of 11 agencies (45%); employing 2,354 staff in total (not just mandatorily restricted staff)
- **Government Services:** 5 of 19 agencies (26%); employing 1,208 staff in total (not just mandatorily restricted staff)
- **Economic Development/Infrastructure:** 2 of 13 agencies (15%); employing 1,285 staff in total (not just mandatorily restricted staff)
- **Education:** 0 agencies

The job growth in the immediate future for state positions by functional category could be gleaned from the Illinois State Budget Book, summarized in Table 6 below.

**Table 6: State Agency headcounts**

| <b>Agency Group</b>              | <b>FY13 Est. headcount</b> | <b>FY14 Target headcount</b> | <b>Proposed Increase</b> |
|----------------------------------|----------------------------|------------------------------|--------------------------|
| Human Services Agencies          | 23,207                     | 23,456                       | 249                      |
| Public Safety Agencies           | 21,789                     | 22,118                       | 329                      |
| Environment and Culture Agencies | 1,356                      | 1,541                        | 185                      |
| Government Service Agencies      | 3,939                      | 4,069                        | 130                      |
| Economic Development Agencies    | 1,119                      | 1,137                        | 18                       |
| Education Agencies               | 848                        | 851                          | 3                        |
|                                  |                            |                              |                          |
| <b>Total</b>                     | <b>52,258</b>              | <b>53,172</b>                | <b>914</b>               |

Source: FY13 Illinois Budget Book

Comparing the percentage of agencies with mandatory employment restrictions in each functional category (above) with the information in Table 6, it can be seen that those government functions that are least restricted also include the smallest agencies with little projected job growth.

On the other hand, the state agency functions with the largest agencies (human services and public safety), while containing the majority of mandatorily restricted job positions, also have many other job titles not mandatorily restricted by state statute or administrative rule. For those positions, an individualized assessment of the nexus between the applicant's prior criminal history and the business necessity of the job duties is possible, offering job opportunities for those with criminal records.

### **Testimony from State Agencies regarding their employment restrictions and hiring process**

Because the Illinois Department of Human Services (DHS), Illinois Department of Corrections (IDOC) and Illinois Department of Children and Family Services (DCFS) were represented on the Task Force, and each had a prominent role in state employment based on their numbers of headcount positions, the task force asked officials of these agencies to report additional detail on their hiring procedures in the form of testimony at Task Force meetings.

#### **Illinois Department of Human Services**

The Illinois Department of Human Services (DHS) has an administrative review process on all direct-care positions, particularly the vulnerable populations of those with mental illness and developmental disabilities, including the schools for the deaf and blind. The review committee does a thorough case by case review, taking into consideration multiple criteria, such as the date of the conviction, if there has been any reduction in criminal behavior, and any pattern of similar offenses, as well as any indication of improved behavior. DHS also uses the DPH registry for nurses, psychiatrists, and a total of 90 direct-care titles that are subject to background checks. DHS caseworkers are not

considered direct-care workers, and thus not subject to this review. Titles included in the list of 90 direct-care jobs subject to a background check include high level skill titles such as nursing directors and psychiatrists, and low level skill titles that include switchboard operator, account clerk, janitor, maintenance driver, and anyone that has direct patient interaction.

### **Illinois Department of Corrections**

For the Illinois Department of Corrections (IDOC), most employment restrictions are based on administrative rule directives, but there is one statute (430 ILCS 65/4) that applies to parole agents who are required to handle a firearm. If they do not meet the criteria to be issued a FOID card, they do not meet the job requirement and will not be hired. Besides that restriction, a background check is conducted on all employees who work with inmates inside the facility and those who have access to any records. If they work outside the facilities, the background check requirements do not apply, since they are escorted at all times within the facilities. IDOC does two types of background checks: 1) a name check via LEADS; and 2) a complete background check of Driver's License, FOID card, check of military records, employment references, juvenile records, and facility visitor log tracking, among other sources of information.

No one is prohibited from working at IDOC based on criminal history background alone. If an applicant has a criminal history, he or she is referred to a review committee that considers such factors as the seriousness of the offense, the frequency and pattern of the criminal history, the nature of the prospective job, and the time that has elapsed since the offense. The requirement for certain IDOC positions to be eligible for a FOID card adds disqualifying factors not faced by other agencies, such as orders of protection (since that is a disqualifying criterion for a FOID card). This issue is faced by other public safety agencies as well. Inquiries uniquely relevant to IDOC applicants are what facilities they may have been incarcerated at, and whether they have any family members incarcerated. These circumstances may not bar the applicant from employment, but might be a "red flag" if not disclosed on the employment application.

The review of background history takes place after the applicant interview. Applicants are not screened based on their answers to Box 9 on the CMS 100 application. That is because a background check is done on every employee and contractor. The only exception is for outside positions that do not require contact with facility residents or sensitive information, which are not subject to a background check.

### **Illinois Department of Children and Family Services**

The Illinois Department of Children and Family Services (DCFS) has an exhaustive listing of background check requirements, authorized pursuant to the Illinois Children and Family Services Act (20 ILCS 505), the Child Care Act (225 ILCS 10), and the Abused Child Reporting Act (325 ILCS 5), to license for employment, contractual, and placement purposes. DCFS conducts a background check on all child care-related licensing applicants, including DCFS employees. In terms of contracting, DCFS limits

background checks by administrative rule to those who have direct access to children. Background checks include a check in the Child Abuse and Neglect Tracking System (CANTS), the Illinois Sex Offender Registry, and fingerprint-based checks of Illinois CHRI and the FBI.

The statutes enumerate specific convictions which are mandatory bars to employment at DCFS, and to being contracted or licensed by the Department for either professional or placement purposes. If an applicant has a conviction for an offense that is not on the mandatory bar list, obtaining a waiver is possible. The waiver process at DCFS involves the Deputy Director of the responsible division, who reviews the waiver requirements to determine if there is a nexus between the position and the conviction. If the waiver is granted, it is not transferrable to another position, since the waiver is based on the relationship between the conviction and the job. This waiver process is not enumerated in statute, but is a discretionary internal administrative decision-making process.

DCFS waiver procedures are under internal review. However, the purpose of the background check is very specific in terms of serving to ensure the safety, permanency, and well-being of children and families during the provision of services, pursuant to Rule 385, the Department rule that pertains to background checks. Because so many of the requirements are set by statute, there is only so much discretion that is available to instituting any changes to the current system. DCFS officials are amenable to reviewing all their current rules and statutes, and refining the background check process for non-bar-able offenses to be as narrowly tailored as possible.

The waiver process is introduced after an adverse hiring decision based on a criminal background has been made. For DCFS employees, licensing applicants, or personal services contractors, that notice will come directly from DCFS (which licenses direct worker services, such as child welfare workers). For employees of DCFS contractors, the notice of an adverse hiring decision and the possibility of a waiver process would come from that employer (not DCFS). Candidates are not necessarily notified of their unsuccessful job candidacy, and if they are, the waiver process is likely not mentioned in any letter to them.

### **Summary of findings regarding occupational licensing restrictions**

Twenty four state agencies, or nearly a third of all agencies under consideration, were found to be involved with occupational licenses, certificates or permits that had a restriction based on an applicant's prior criminal record. Together, these agencies are responsible for almost 200 such licenses. Please refer to the list of agencies organized by functional categories above and Appendix D for the full list of agencies and licenses which have a restriction based on criminal history.

#### **Agency Does Occupational Licensing/Regulating**

- Yes = 24 (34%)
- No = 44 (63%)
- No report submitted = 2 (3%)

Based on the summary sheet compiled by staff, there were 318 separate statutes restricting the various occupational licenses. These restrictions were almost evenly split between mandatory and discretionary restrictions, as seen below. The actual restrictions for specific licenses are enumerated in the State Agency Fact Sheets found in Appendix H, and on the Summary Employment Restrictions Sheet posted on the IERTF website (<http://www.icjia.org/IERTF/>). The licenses mandatorily restricted due to any type of conviction, and those restricted due to a felony conviction, with no time limits specified, are marked with an asterisk.

#### **Occupational License: Restriction Type**

- Discretionary = 168 (53%)
- Mandatory = 150 (47%)

#### **Occupational licensing by Illinois Department of Financial and Professional Regulation (IDFPR)**

Because of its prominent role in occupational licensing in the state, the Task Force asked officials from Illinois Department of Financial and Professional Regulation (IDFPR) to provide a detailed report on their practices.

Currently, IDFPR has over 1 million licensees in 175 professions, and is subject to 62 different Practice Acts that typically sunset every 10 years, although the legislature has begun to impose yearly sunset periods on some acts, such as the Medical Practice Act. IDFPR deals with only a handful of Acts that contain absolute bars to occupational licensure.

The licensure process, whether a new application or a renewal, includes questions on the application that read: “1. Have you been convicted of any criminal offense in any state or federal court (except a minor traffic offense)? If yes, please attach a copy of the court record regarding your conviction. 2. Have you been convicted of a felony?” Any affirmative answer to those questions starts the process on the part of IDFPR to determine if the applicant is eligible for the license.

When an application comes in with a “positive personal history”, meaning that there is an affirmative answer for a criminal conviction, or a complaint is filed regarding a new criminal conviction after someone is already licensed, it is reviewed first by the investigative or licensing unit, then it is forwarded to the prosecutions unit, then it goes to a hearing, and then to the Director’s Office for an order regarding that application or license. Nothing is final until the Director signs an order.

There are two ways in which cases deemed eligible for a denial (or a disciplinary complaint regarding an existing license) can be resolved. There can be a negotiated settlement via an informal conference with the applicant, a department attorney, and a Board member. All professions licensed by IDFPR have Disciplinary Boards, and members sit in on 90 percent of all such conferences. From there, a recommendation is

sent to the Director for approval. Conversely, if there is not an agreement on the case, the applicant can request a hearing in front of an Administrative Law Judge (ALJ). Once the ALJ judge makes a recommendation, it goes to the appropriate Board for adoption or rejection, and the final order goes to the Director for action on that license.

A new license can be issued with an imposed period of probation, or with a reprimand for the prior conviction. With the probationary period, other conditions can be imposed, depending on individual circumstances. The IDFPR recognizes the need to balance the ability of the ex-offender to obtain gainful employment in a licensed occupation with the safety and welfare of the general public. The reprimand or probationary status is one way the general public can be informed that the licensee has a prior criminal conviction.

IDFPR must contend with a myriad of diverse eligibility factors for the occupational licenses under its jurisdiction. For example, a person with a conviction applying to become a locksmith, private detective, or private security guard will not be eligible for that license until ten years after the full discharge of the sentence served for that conviction (225 ILCS 447). In contrast, the Massage Licensing Act (225 ILCS 57) establishes an absolute bar to a massage therapist license for anyone convicted of a sex offense, including violent sex offenses and prostitution.

The Real Estate Act (225 ILCS 454/5-25) is an example of how most of Illinois' Practice Acts read. The license prohibitions are framed as evidence of moral turpitude through convictions for forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, and other similar offense. There may also be suggested measures for rehabilitation.

For mortgage loan originators, state law (205 ILCS 635/7-32(2)) establishes a seven year bar for a felony, while federal law establishes a lifetime bar for a felony involving such offenses as fraud, money laundering, dishonesty, and breach of trust. The state statute had to be amended to conform to severity of the federal law, which was not originally as punitive, since the process of loan origination is regulated federally, and IDFPR merely acts as the state agent instituting those federal regulations. If the Illinois statute had not been changed, then the federal government could have determined that no one in Illinois was eligible to originate real estate loans.

Another example is the Medical Practice Act (225 ILCS 60/23). Under this Act, State's Attorneys have a duty to report convictions of persons with medical licenses to the appropriate Disciplinary Board, within five days of the conviction. Even with outreach by IDFPR, and setting up a web portal, there is no real diligence across the state for such reporting. More often than not, IDFPR learns of these convictions thru the news media.

A more recent law, Health Care Workers Licensure Actions – Sex Crimes (20 ILCS 2105/2105-165) refers to licensed health care workers, as defined by the Health Care Worker Self-Referral Act. This law was enacted in reaction to negative publicity of professional misconduct in the newspaper, resulting in a very restrictive statute. It applies to physicians, surgeons, nurses, respiratory therapists, and pharmacists among other

health professionals. Any medical worker that is required to register as a sex offender, or has been convicted of a criminal battery against a patient, including a sexual offense, or has been convicted of a forcible felony shall have his or her license permanently revoked without a hearing, by operation of law. This law has no statute of limitations on prior convictions, and prior disciplinary decisions by IDFPR have no bearing. So, on the one hand, IDFPR is working with groups to extend more means of rehabilitation to obtain licenses, while having to enact mandatory retroactive measures to permanently revoke licenses in other cases. The Medical Practice Act has three- and five-year statutes of limitations, but the new law overrides those.

The form “Health Care Workers Charged With or Convicted of Criminal Acts” requests supporting documentation of any criminal involvement. If a health care worker is arrested for any qualifying offense in the new act, that worker must be ordered to interact with patients only in the presence of chaperones (20 ILCS 2105/2105-165 (c)), who are third parties agreed upon between the judge in the case and the accused health care worker, and paid for by the health care worker for the duration of his or her criminal case.

One area of reform has been the development of Certificates of Relief from Disabilities, aimed primarily at Public Health workers. Certified Nurses Assistants (CNAs), for example, are licensed by the Department of Public Health. If convicted of a crime, they can seek a waiver to return to work.

IDFPR officials indicated to the IERTF that their focus is on trying to get people licensed, so as to contribute to reducing recidivism and its associated costs to the person and the state. The certificates are issued by the court, and are to be presented by candidates in support of their rehabilitation efforts post-conviction. Certificates of Good Conduct are newer than the Certificates of Rehabilitation, but the statute creating this relief mechanism does not specify how these certificates are issued and they have not been presented to IDFPR with any license applications.

A law was passed in 2009 (20 ILCS 2105/2105 -15) that permits persons with criminal records to obtain non-binding advisory opinions from IDFPR as to their eligibility for a specific occupational license in light of that record. IDFPR is working on providing a link to the form to be used in this process on its website. IDFPR offices have staff to assist walk-in clients seeking information on the licensing process and required forms. The form under discussion was developed in response to the new law, as it required the promulgation of administrative rules for the request of a written non-binding advisory opinion. The form and the release to obtain the person’s criminal history transcript allow the department to do the required research on the correct set of facts, not just the person’s recollection of their circumstances.

As to background check methods, not all occupations require a fingerprint-based check, but the requirement for one is specified in nearly all of the statutes governing the various occupations, as is the specification of whether the State Police is to return an FBI response along with the state response. All license applications require an initial self-report, and further criminal history checks are done to corroborate the self-reporting.

IDFPR indicated to the IERTF that less than half of those with prior convictions report them accurately, and for those that do, it is usually at the time of license renewal. Lying on an application can lead to the filing of a complaint and the subsequent decision to impose the various sanctions available to the department (suspension/revocation of an existing license, denial or imposing various terms on any new license), depending on how long the person has been misreporting.

There are negative consequences to having an adverse action taken on your license. It can affect acceptance of that license in another state, or the individual's marketability may decrease with a resulting financial impact. All actions taken by IDFPR on an occupational license are reported on the licensee's record, so that the public can be informed of any criminal or professional misconduct on the part of licensed professionals from whom they are seeking services.



## VI. IERTF Recommendations

The following are the final recommendations of the Inventorying Employment Restrictions Task Force:

### Introduction

Because African Americans and Hispanics are incarcerated at rates disproportionate to their numbers in the general population, we endorse the Equal Employment Opportunity Commission (EEOC) position that “blanket” restrictions based on criminal history – whereby any previous conviction serves as a disqualification regardless of other factors – can create a **disparate impact** on employment. This occurs when an employer’s neutral policy or practice has the effect of disproportionately screening out a group protected under Title VII of the Civil Rights Act of 1964, based on an individual’s race, color, religion, sex, or national origin. We additionally endorse EEOC guidance on how to consider an individual’s criminal history in a way that does not risk disparate impact. *EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* promotes the following employment principles:

- a) Applicants should be given individualized consideration for opportunities;
- b) Applicants’ records should also be considered through the lens of “business necessity” which weighs the applicants’ record, the amount of time that has passed since the offenses took place, and the relatedness of the offenses to their fitness or ability to perform the job’s duties against the need for employers to have a safe work environment for all; and
- c) Entities should reconsider whether lifetime bans to opportunities comport with the business necessity test noted above.

The following set of recommendations contains several proposals that may be voluntarily adopted, and others that require policy actions by the Illinois General Assembly and the Illinois Office of the Governor.

### Criminal history self-disclosure

1. The State of Illinois should expand the Illinois Human Rights Act, and adopt the EEOC recommendation that for state hiring purposes, “employers not ask about convictions on job applications and that if and when they make such inquiries, they be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity.” Therefore, we endorse removing any inquiry into the applicant’s criminal history from the current CMS100 application. Similarly, agencies, boards, and commissions filling positions not under

the Personnel Code shall remove any inquiry into the applicant's criminal history on employment applications.

2. Each agency, board, and commission may elect to use a criminal records self-disclosure form as a part of its hiring process. Each agency, board, and commission that elects to use such a self-disclosure form shall adhere to a statewide policy that permits the disclosure form to be requested and considered only after the point at which a candidate's other qualifications for a specific position are being considered.

### **Criminal history background checks**

3. Each agency, board and commission shall adopt an "Authorization for Release" form that requests an applicant's permission to obtain information relating to their criminal history. "Authorization for Release" forms shall exclude any reference to criminal records self-disclosure.
4. If criminal history background checks are conducted, unless otherwise specified under statute or administrative rule, the Illinois State Police statutory and administrative procedures for conducting Uniform Conviction Information Act (UCIA) checks shall be followed by state agencies, boards, and commissions to ensure that an applicant's permission is received for that background check, that criminal history transcripts can be included as part of a nexus review, that the applicant has an opportunity to review the transcript, and that he or she has an opportunity to challenge or correct his or her record.
5. Each state agency, board and commission shall adhere to a statewide policy that will permit criminal background checks to be requested and considered only after the point at which a candidate's other qualifications for a specific position are being considered. Once a criminal background check is received, the respective agency, board or commission shall determine whether there is a nexus between the position to be filled and the candidate's criminal history. State agencies, boards, and commissions shall not inquire into, nor use the fact of an arrest or a criminal record that has been ordered expunged, sealed or impounded in the nexus review unless otherwise authorized by law.

### **Consideration of applicant's criminal history**

6. Each agency, board, and commission shall establish a documented nexus review process for the evaluation of candidate's criminal record information. The review process shall only exclude a candidate relative to his/her criminal history where it is determined that exclusion is job-related and consistent with business necessity, including but not limited to:
  - Nature and gravity of the offense
  - Time that has elapsed since the conviction and/or completion of sentence; and

- Nature of the job being sought
7. All state agencies, boards, and commissions shall develop a process by which the applicant is informed that he or she may be disqualified for the specific position applied for due to their past criminal convictions, and will provide to the applicant a copy of their criminal background check. CMS shall modify the CMS 100 to include an email contact section. Similarly, non-personnel code agencies, boards, and commissions that do not use the CMS Application shall include an email contact section in their employment application.

### **Publication of agency restrictions and review procedures**

8. All state agencies, boards, and commissions shall initiate an internal review of all licensure requirements and determine whether existing restrictions are based on job-related criteria consonant with business necessity. Each agency, board, and commission shall report back to the General Assembly all existing restrictions and corrective measures within 90 days after completing its internal review.
9. All state agencies, boards, and commissions shall create, implement, and make publicly available their internal administrative review process. The applicant shall be provided an opportunity to demonstrate that the restriction should not apply to him or her, and to provide relevant information that may impact the agency, board, or commission's determination regarding the disqualification. The administrative review decisions shall be made by committees comprised of no less than three staff members. The hiring process may proceed during the pendency of the nexus review.
10. All state agencies, boards, and commissions shall make physically and electronically available to the public information which clearly identifies requirements and any job restrictions related to criminal history specified in statute, administrative rule, or agency policy, as well as any administrative review rights. That information shall also be posted on the State of Illinois website.

### **Resources for individual applicants**

11. An Illinois Reentry Employment Resource Center shall be created within state government to serve as a resource to all state agencies and persons with criminal records regarding licensure and employment. Each state agency, board, and commission shall designate liaisons to work with the Center to resolve agency-specific hiring and licensure inquiries. The Center should be comprised of legal and human resources professionals who can provide guidance to persons with criminal records, request pertinent information from agencies, boards, and commissions, and answer procedural questions.

12. The Illinois State Police shall establish a help desk phone line for individuals who seek resource assistance for the purpose of understanding Illinois State Police issued criminal record documents.

### **Resources for hiring and licensing agencies**

13. Each agency, board, and commission shall conduct annual training of all human resources department staff and hiring managers on its state hiring policies for individuals with criminal records.
14. Explore the viability for future studies to determine the outcomes of decisions to hire or license persons with criminal records.

## **Appendix A**

### **EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964**

## ***EEOC Enforcement Guidance***

**Number**

915.002

**Date**

4/25/2012

1. **SUBJECT:** Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.*
2. **PURPOSE:** The purpose of this Enforcement Guidance is to consolidate and update the U.S. Equal Employment Opportunity Commission's guidance documents regarding the use of arrest or conviction records in employment decisions under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*
3. **EFFECTIVE DATE:** Upon receipt.
4. **EXPIRATION DATE:** This Notice will remain in effect until rescinded or superseded.
5. **ORIGINATOR:** Office of Legal Counsel.

# Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964

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## **I. Summary**

- An employer's use of an individual's criminal history in making employment decisions may, in some instances, violate the prohibition against employment discrimination under Title VII of the Civil Rights Act of 1964, as amended.
- The Guidance builds on longstanding court decisions and existing guidance documents that the U.S. Equal Employment Opportunity Commission (Commission or EEOC) issued over twenty years ago.
- The Guidance focuses on employment discrimination based on race and national origin. The Introduction provides information about criminal records, employer practices, and Title VII.
- The Guidance discusses the differences between arrest and conviction records.
  - The fact of an arrest does not establish that criminal conduct has occurred, and an exclusion based on an arrest, in itself, is not job related and consistent with business necessity. However, an employer may make an employment decision based on the conduct underlying an arrest if the conduct makes the individual unfit for the position in question.
  - In contrast, a conviction record will usually serve as sufficient evidence that a person engaged in particular conduct. In certain circumstances, however, there may be reasons for an employer not to rely on the conviction record alone when making an employment decision.
- The Guidance discusses disparate treatment and disparate impact analysis under Title VII.
  - A violation may occur when an employer treats criminal history information differently for different applicants or employees, based on their race or national origin (disparate treatment liability).
  - An employer's neutral policy (e.g., excluding applicants from employment based on certain criminal conduct) may disproportionately impact some individuals protected under Title VII, and may violate the law if not job related and consistent with business necessity (disparate impact liability).
    - National data supports a finding that criminal record exclusions have a disparate impact based on race and national origin. The national data provides a basis for the Commission to investigate Title VII disparate impact charges challenging criminal record exclusions.

- Two circumstances in which the Commission believes employers will consistently meet the “job related and consistent with business necessity” defense are as follows:
  - The employer validates the criminal conduct exclusion for the position in question in light of the Uniform Guidelines on Employee Selection Procedures (if there is data or analysis about criminal conduct as related to subsequent work performance or behaviors); or
  - The employer develops a targeted screen considering at least the nature of the crime, the time elapsed, and the nature of the job (the three factors identified by the court in *Green v. Missouri Pacific Railroad*, 549 F.2d 1158 (8th Cir. 1977)). The employer’s policy then provides an opportunity for an individualized assessment for those people identified by the screen, to determine if the policy as applied is job related and consistent with business necessity. (Although Title VII does not require individualized assessment in all circumstances, the use of a screen that does not include individualized assessment is more likely to violate Title VII.).
- Compliance with other federal laws and/or regulations that conflict with Title VII is a defense to a charge of discrimination under Title VII.
- State and local laws or regulations are preempted by Title VII if they “purport[] to require or permit the doing of any act which would be an unlawful employment practice” under Title VII. 42 U.S.C. § 2000e-7.
- The Guidance concludes with best practices for employers.

## II. Introduction

The EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII) which prohibits employment discrimination based on race, color, religion, sex, or national origin.<sup>1</sup> This Enforcement Guidance is issued as part of the Commission's efforts to eliminate unlawful discrimination in employment screening, for hiring or retention, by entities covered by Title VII, including private employers as well as federal, state, and local governments.<sup>2</sup>

In the last twenty years, there has been a significant increase in the number of Americans who have had contact<sup>3</sup> with the criminal justice system<sup>4</sup> and, concomitantly, a major increase in the number of people with criminal records in the working-age population.<sup>5</sup> In 1991, only 1.8% of the adult population had served time in prison.<sup>6</sup> After ten years, in 2001, the percentage rose to 2.7% (1 in 37 adults).<sup>7</sup> By the end of 2007, 3.2% of all adults in the United States (1 in every 31) were under some form of correctional control involving probation, parole, prison, or jail.<sup>8</sup> The Department of Justice's Bureau of Justice Statistics (DOJ/BJS) has concluded that, if incarceration rates do not decrease, approximately 6.6% of all persons born in the United States in 2001 will serve time in state or federal prison during their lifetimes.<sup>9</sup>

Arrest and incarceration rates are particularly high for African American and Hispanic men.<sup>10</sup> African Americans and Hispanics<sup>11</sup> are arrested at a rate that is 2 to 3 times their proportion of the general population.<sup>12</sup> Assuming that current incarceration rates remain unchanged, about 1 in 17 White men are expected to serve time in prison during their lifetime;<sup>13</sup> by contrast, this rate climbs to 1 in 6 for Hispanic men; and to 1 in 3 for African American men.<sup>14</sup>

The Commission, which has enforced Title VII since it became effective in 1965, has well-established guidance applying Title VII principles to employers' use of criminal records to screen for employment.<sup>15</sup> This Enforcement Guidance builds on longstanding court decisions and policy documents that were issued over twenty years ago. In light of employers' increased access to criminal history information, case law analyzing Title VII requirements for criminal record exclusions, and other developments,<sup>16</sup> the Commission has decided to update and consolidate in this document all of its prior policy statements about Title VII and the use of criminal records in employment decisions. Thus, this Enforcement Guidance will supersede the Commission's previous policy statements on this issue.

The Commission intends this document for use by employers considering the use of criminal records in their selection and retention processes; by individuals who suspect that they have been denied jobs or promotions, or have been discharged because of their criminal records; and by EEOC staff who are investigating discrimination charges involving the use of criminal records in employment decisions.

### III. Background

The contextual framework for the Title VII analysis in this Enforcement Guidance includes how criminal record information is collected and recorded, why employers use criminal records, and the EEOC's interest in such criminal record screening.

#### A. Criminal History Records

Criminal history information can be obtained from a wide variety of sources including, but not limited to, the following:

- Court Records. Courthouses maintain records relating to criminal charges and convictions, including arraignments, trials, pleas, and other dispositions.<sup>17</sup> Searching county courthouse records typically provides the most complete criminal history.<sup>18</sup> Many county courthouse records must be retrieved on-site,<sup>19</sup> but some courthouses offer their records online.<sup>20</sup> Information about federal crimes such as interstate drug trafficking, financial fraud, bank robbery, and crimes against the government may be found online in federal court records by searching the federal courts' Public Access to Court Electronic Records or Case Management/Electronic Case Files.<sup>21</sup>
- Law Enforcement and Corrections Agency Records. Law enforcement agencies such as state police agencies and corrections agencies may allow the public to access their records, including records of complaints, investigations, arrests, indictments, and periods of incarceration, probation, and parole.<sup>22</sup> Each agency may differ with respect to how and where the records may be searched, and whether they are indexed.<sup>23</sup>
- Registries or Watch Lists. Some government entities maintain publicly available lists of individuals who have been convicted of, or are suspected of having committed, a certain type of crime. Examples of such lists include state and federal sex offender registries and lists of individuals with outstanding warrants.<sup>24</sup>
- State Criminal Record Repositories. Most states maintain their own centralized repositories of criminal records, which include records that are submitted by most or all of their criminal justice agencies, including their county courthouses.<sup>25</sup> States differ with respect to the types of records included in the repository,<sup>26</sup> the completeness of the records,<sup>27</sup> the frequency with which they are updated,<sup>28</sup> and whether they permit the public to search the records by name, by fingerprint, or both.<sup>29</sup> Some states permit employers (or third-parties acting on their behalf) to access these records, often for a fee.<sup>30</sup> Others limit access to certain types of records,<sup>31</sup> and still others deny access altogether.<sup>32</sup>
- The Interstate Identification Index (III). The Federal Bureau of Investigation (FBI) maintains the most comprehensive collection of criminal records in the nation, called the "Interstate Identification Index" (III). The III database compiles

records from each of the state repositories, as well as records from federal and international criminal justice agencies.<sup>33</sup>

The FBI's III database may be accessed for employment purposes by:

- the federal government;<sup>34</sup>
- employers in certain industries that are regulated by the federal government, such as “the banking, nursing home, securities, nuclear energy, and private security guard industries; as well as required security screenings by federal agencies of airport workers, HAZMAT truck drivers and other transportation workers”;<sup>35</sup> and
- employers in certain industries “that the state has sought to regulate, such as persons employed as civil servants, day care, school, or nursing home workers, taxi drivers, private security guards, or members of regulated professions.”<sup>36</sup>

Recent studies have found that a significant number of state and federal criminal record databases include incomplete criminal records.

- A 2011 study by the DOJ/BJS reported that, as of 2010, many state criminal history record repositories still had not recorded the final dispositions for a significant number of arrests.<sup>37</sup>
- A 2006 study by the DOJ/BJS found that only 50% of arrest records in the FBI's III database were associated with a final disposition.<sup>38</sup>

Additionally, reports have documented that criminal records may be inaccurate.

- One report found that even if public access to criminal records has been restricted by a court order to seal and/or expunge such records, this does not guarantee that private companies also will purge the information from their systems or that the event will be erased from media archives.<sup>39</sup>
- Another report found that criminal background checks may produce inaccurate results because criminal records may lack “unique” information or because of “misspellings, clerical errors or intentionally inaccurate identification information provided by search subjects who wish to avoid discovery of their prior criminal activities.”<sup>40</sup>

Employers performing background checks to screen applicants or employees may attempt to search these governmental sources themselves or conduct a simple Internet search, but they often rely on third-party background screening businesses.<sup>41</sup> Businesses that sell criminal history information to employers are “consumer reporting agencies” (CRAs)<sup>42</sup> if they provide the information in “consumer reports”<sup>43</sup> under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (FCRA). Under FCRA, a CRA generally may not report records of arrests that did not result in entry of a judgment of conviction, where the arrests occurred more than seven years ago.<sup>44</sup>

However, they may report convictions indefinitely.<sup>45</sup>

CRAAs often maintain their own proprietary databases that compile information from various sources, such as those described above, depending on the extent to which the business has purchased or otherwise obtained access to data.<sup>46</sup> Such databases vary with respect to the geographic area covered, the type of information included (e.g., information about arrests, convictions, prison terms, or specialized information for a subset of employers such as information about workplace theft or shoplifting cases for retail employers<sup>47</sup>), the sources of information used (e.g., county databases, law enforcement agency records, sex offender registries), and the frequency with which they are updated. They also may be missing certain types of disposition information, such as updated convictions, sealing or expungement orders, or orders for entry into a diversion program.<sup>48</sup>

## **B. Employers' Use of Criminal History Information**

In one survey, a total of 92% of responding employers stated that they subjected all or some of their job candidates to criminal background checks.<sup>49</sup> Employers have reported that their use of criminal history information is related to ongoing efforts to combat theft and fraud,<sup>50</sup> as well as heightened concerns about workplace violence<sup>51</sup> and potential liability for negligent hiring.<sup>52</sup> Employers also cite federal laws as well as state and local laws<sup>53</sup> as reasons for using criminal background checks.

## **C. The EEOC's Interest in Employers' Use of Criminal Records in Employment Screening**

The EEOC enforces Title VII, which prohibits employment discrimination based on race, color, religion, sex, or national origin. Having a criminal record is not listed as a protected basis in Title VII. Therefore, whether a covered employer's reliance on a criminal record to deny employment violates Title VII depends on whether it is part of a claim of employment discrimination based on race, color, religion, sex, or national origin. Title VII liability for employment discrimination is determined using two analytic frameworks: "disparate treatment" and "disparate impact." Disparate treatment is discussed in Section IV and disparate impact is discussed in Section V.

## **IV. Disparate Treatment Discrimination and Criminal Records**

A covered employer is liable for violating Title VII when the plaintiff demonstrates that it treated him differently because of his race, national origin, or another protected basis.<sup>54</sup> For example, there is Title VII disparate treatment liability where the evidence shows that a covered employer rejected an African American applicant based on his criminal record but hired a similarly situated White applicant with a comparable criminal record.<sup>55</sup>

**Example 1: Disparate Treatment Based on Race.** John, who is White, and Robert, who is African American, are both recent graduates of State University. They have similar educational backgrounds, skills, and work experience. They each pled guilty to charges of possessing and

distributing marijuana as high school students, and neither of them had any subsequent contact with the criminal justice system.

After college, they both apply for employment with Office Jobs, Inc., which, after short intake interviews, obtains their consent to conduct a background check. Based on the outcome of the background check, which reveals their drug convictions, an Office Jobs, Inc., representative decides not to refer Robert for a follow-up interview. The representative remarked to a co-worker that Office Jobs, Inc., cannot afford to refer “these drug dealer types” to client companies. However, the same representative refers John for an interview, asserting that John’s youth at the time of the conviction and his subsequent lack of contact with the criminal justice system make the conviction unimportant. Office Jobs, Inc., has treated John and Robert differently based on race, in violation of Title VII.

Title VII prohibits “not only decisions driven by racial [or ethnic] animosity, but also decisions infected by stereotyped thinking . . . .”<sup>56</sup> Thus, an employer’s decision to reject a job applicant based on racial or ethnic stereotypes about criminality—rather than qualifications and suitability for the position—is unlawful disparate treatment that violates Title VII.<sup>57</sup>

**Example 2: Disparate Treatment Based on National Origin.** Tad, who is White, and Nelson, who is Latino, are both recent high school graduates with grade point averages above 4.0 and college plans. While Nelson has successfully worked full-time for a landscaping company during the summers, Tad only held occasional lawn-mowing and camp-counselor jobs. In an interview for a research job with Meaningful and Paid Internships, Inc. (MPII), Tad discloses that he pled guilty to a felony at age 16 for accessing his school’s computer system over the course of several months without authorization and changing his classmates’ grades. Nelson, in an interview with MPII, emphasizes his successful prior work experience, from which he has good references, but also discloses that, at age 16, he pled guilty to breaking and entering into his high school as part of a class prank that caused little damage to school property. Neither Tad nor Nelson had subsequent contact with the criminal justice system.

The hiring manager at MPII invites Tad for a second interview, despite his record of criminal conduct. However, the same hiring manager sends Nelson a rejection notice, saying to a colleague that Nelson is only qualified to do manual labor and, moreover, that he has a criminal record. In light of the evidence showing that Nelson’s and Tad’s educational backgrounds are similar, that Nelson’s work experience is more extensive, and that Tad’s criminal conduct is more indicative of untrustworthiness, MPII has failed to state a legitimate, nondiscriminatory reason for rejecting Nelson. If Nelson filed a Title VII charge alleging disparate treatment based on national origin and the EEOC’s investigation

confirmed these facts, the EEOC would find reasonable cause to believe that discrimination occurred.

There are several kinds of evidence that may be used to establish that race, national origin, or other protected characteristics motivated an employer's use of criminal records in a selection decision, including, but not limited to:

- Biased statements. Comments by the employer or decisionmaker that are derogatory with respect to the charging party's protected group, or that express group-related stereotypes about criminality, might be evidence that such biases affected the evaluation of the applicant's or employee's criminal record.
- Inconsistencies in the hiring process. Evidence that the employer requested criminal history information more often for individuals with certain racial or ethnic backgrounds, or gave Whites but not racial minorities the opportunity to explain their criminal history, would support a showing of disparate treatment.
- Similarly situated comparators (individuals who are similar to the charging party in relevant respects, except for membership in the protected group). Comparators may include people in similar positions, former employees, and people chosen for a position over the charging party. The fact that a charging party was treated differently than individuals who are not in the charging party's protected group by, for example, being subjected to more or different criminal background checks or to different standards for evaluating criminal history, would be evidence of disparate treatment.
- Employment testing. Matched-pair testing may reveal that candidates are being treated differently because of a protected status.<sup>58</sup>
- Statistical evidence. Statistical analysis derived from an examination of the employer's applicant data, workforce data, and/or third party criminal background history data may help to determine if the employer counts criminal history information more heavily against members of a protected group.

## **V. Disparate Impact Discrimination and Criminal Records**

A covered employer is liable for violating Title VII when the plaintiff demonstrates that the employer's neutral policy or practice has the effect of disproportionately screening out a Title VII-protected group and the employer fails to demonstrate that the policy or practice is job related for the position in question and consistent with business necessity.<sup>59</sup>

In its 1971 *Griggs v. Duke Power Company* decision, the Supreme Court first recognized that Title VII permits disparate impact claims.<sup>60</sup> The *Griggs* Court explained that "[Title VII] proscribes . . . practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude [African Americans] cannot be shown to be related to job performance, the practice is prohibited."<sup>61</sup> In 1991,



Congress amended Title VII to codify this analysis of discrimination and its burdens of proof.<sup>62</sup> Title VII, as amended, states:

An unlawful employment practice based on disparate impact is established . . . if a complaining party demonstrates that an employer uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity. . . .<sup>63</sup>

With respect to criminal records, there is Title VII disparate impact liability where the evidence shows that a covered employer's criminal record screening policy or practice disproportionately screens out a Title VII-protected group and the employer does not demonstrate that the policy or practice is job related for the positions in question and consistent with business necessity.

#### **A. Determining Disparate Impact of Policies or Practices that Screen Individuals Based on Records of Criminal Conduct**

##### **1. Identifying the Policy or Practice**

The first step in disparate impact analysis is to identify the particular policy or practice that causes the unlawful disparate impact. For criminal conduct exclusions, relevant information includes the text of the policy or practice, associated documentation, and information about how the policy or practice was actually implemented. More specifically, such information also includes which offenses or classes of offenses were reported to the employer (e.g., all felonies, all drug offenses); whether convictions (including sealed and/or expunged convictions), arrests, charges, or other criminal incidents were reported; how far back in time the reports reached (e.g., the last five, ten, or twenty years); and the jobs for which the criminal background screening was conducted.<sup>64</sup> Training or guidance documents used by the employer also are relevant, because they may specify which types of criminal history information to gather for particular jobs, how to gather the data, and how to evaluate the information after it is obtained.

##### **2. Determining Disparate Impact**

Nationally, African Americans and Hispanics are arrested in numbers disproportionate to their representation in the general population. In 2010, 28% of all arrests were of African Americans,<sup>65</sup> even though African Americans only comprised approximately 14% of the general population.<sup>66</sup> In 2008, Hispanics were arrested for federal drug charges at a rate of approximately three times their proportion of the general population.<sup>67</sup> Moreover, African Americans and Hispanics were more likely than Whites to be arrested, convicted, or sentenced for drug offenses even though their rate of drug use is similar to the rate of drug use for Whites.<sup>68</sup>

African Americans and Hispanics also are incarcerated at rates disproportionate to their numbers in the general population. Based on national incarceration data, the U.S. Department of Justice estimated in 2001 that 1 out of every 17 White men (5.9% of the White men in the U.S.)

is expected to go to prison at some point during his lifetime, assuming that current incarceration rates remain unchanged.<sup>69</sup> This rate climbs to 1 in 6 (or 17.2%) for Hispanic men.<sup>70</sup> For African American men, the rate of expected incarceration rises to 1 in 3 (or 32.2%).<sup>71</sup> Based on a state-by-state examination of incarceration rates in 2005, African Americans were incarcerated at a rate 5.6 times higher than Whites,<sup>72</sup> and 7 states had a Black-to-White ratio of incarceration that was 10 to 1.<sup>73</sup> In 2010, Black men had an imprisonment rate that was nearly 7 times higher than White men and almost 3 times higher than Hispanic men.<sup>74</sup>

National data, such as that cited above, supports a finding that criminal record exclusions have a disparate impact based on race and national origin. The national data provides a basis for the Commission to further investigate such Title VII disparate impact charges. During an EEOC investigation, the employer also has an opportunity to show, with relevant evidence, that its employment policy or practice does not cause a disparate impact on the protected group(s). For example, an employer may present regional or local data showing that African American and/or Hispanic men are not arrested or convicted at disproportionately higher rates in the employer's particular geographic area. An employer also may use its own applicant data to demonstrate that its policy or practice did not cause a disparate impact. The Commission will assess relevant evidence when making a determination of disparate impact, including applicant flow information maintained pursuant to the Uniform Guidelines on Employee Selection Procedures,<sup>75</sup> workforce data, criminal history background check data, demographic availability statistics, incarceration/conviction data, and/or relevant labor market statistics.<sup>76</sup>

An employer's evidence of a racially balanced workforce will not be enough to disprove disparate impact. In *Connecticut v. Teal*, the Supreme Court held that a "bottom line" racial balance in the workforce does not preclude employees from establishing a prima facie case of disparate impact; nor does it provide employers with a defense.<sup>77</sup> The issue is whether the policy or practice deprives a disproportionate number of Title VII-protected individuals of employment opportunities.<sup>78</sup>

Finally, in determining disparate impact, the Commission will assess the probative value of an employer's applicant data. As the Supreme Court stated in *Dothard v. Rawlinson*, an employer's "application process might itself not adequately reflect the actual potential applicant pool since otherwise qualified people might be discouraged from applying" because of an alleged discriminatory policy or practice.<sup>79</sup> Therefore, the Commission will closely consider whether an employer has a reputation in the community for excluding individuals with criminal records. Relevant evidence may come from ex-offender employment programs, individual testimony, employer statements, evidence of employer recruitment practices, or publicly posted notices, among other sources.<sup>80</sup> The Commission will determine the persuasiveness of such evidence on a case-by-case basis.

## **B. Job Related For the Position in Question and Consistent with Business Necessity**

### **1. Generally**

After the plaintiff in litigation establishes disparate impact, Title VII shifts the burdens of

production and persuasion to the employer to “demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.”<sup>81</sup> In the legislative history of the 1991 Civil Rights Act, Congress referred to *Griggs* and its progeny such as *Albemarle Paper Company v. Moody*<sup>82</sup> and *Dothard*<sup>83</sup> to explain how this standard should be construed.<sup>84</sup> The *Griggs* Court stated that the employer’s burden was to show that the policy or practice is one that “bear[s] a demonstrable relationship to successful performance of the jobs for which it was used” and “measures the person for the job and not the person in the abstract.”<sup>85</sup> In both *Albemarle*<sup>86</sup> and *Dothard*,<sup>87</sup> the Court emphasized the factual nature of the business necessity inquiry. The Court further stated in *Dothard* that the terms of the exclusionary policy must “be shown to be necessary to safe and efficient job performance.”<sup>88</sup>

In a case involving a criminal record exclusion, the Eighth Circuit in its 1975 *Green v. Missouri Pacific Railroad* decision, held that it was discriminatory under Title VII for an employer to “follow[] the policy of disqualifying for employment any applicant with a conviction for any crime other than a minor traffic offense.”<sup>89</sup> The Eighth Circuit identified three factors (the “*Green* factors”) that were relevant to assessing whether an exclusion is job related for the position in question and consistent with business necessity:

- The nature and gravity of the offense or conduct;<sup>90</sup>
- The time that has passed since the offense or conduct and/or completion of the sentence;<sup>91</sup> and
- The nature of the job held or sought.<sup>92</sup>

In 2007, the Third Circuit in *El v. Southeastern Pennsylvania Transportation Authority*<sup>93</sup> developed the statutory analysis in greater depth. Douglas El challenged SEPTA’s policy of excluding everyone ever convicted of a violent crime from the job of paratransit driver.<sup>94</sup> El, a 55 year-old African American paratransit driver-trainee, was terminated from employment when SEPTA learned of his conviction for second-degree murder 40 years earlier; the conviction involved a gang fight when he was 15 years old and was his only disqualifying offense under SEPTA’s policy.<sup>95</sup> The Third Circuit expressed “reservations” about a policy such as SEPTA’s (exclusion for all violent crimes, no matter how long ago they were committed) “in the abstract.”<sup>96</sup>

Applying Supreme Court precedent, the *El* court observed that some level of risk is inevitable in all hiring, and that, “[i]n a broad sense, hiring policies . . . ultimately concern the management of risk.”<sup>97</sup> Recognizing that assessing such risk is at the heart of criminal record exclusions, the Third Circuit concluded that Title VII requires employers to justify criminal record exclusions by demonstrating that they “accurately distinguish between applicants [who] pose an unacceptable level of risk and those [who] do not.”<sup>98</sup>

The Third Circuit affirmed summary judgment for SEPTA, but stated that the outcome of the case might have been different if Mr. El had, “for example, hired an expert who testified that there is a time at which a former criminal is no longer any more likely to recidivate than the average person, . . . [so] there would be a factual question for the jury to resolve.”<sup>99</sup> The Third Circuit reasoned, however, that the recidivism evidence presented by SEPTA’s experts, in

conjunction with the nature of the position at issue—paratransit driver-trainee with unsupervised access to vulnerable adults—required the employer to exercise the utmost care.<sup>100</sup>

In the subsections below, the Commission discusses considerations that are relevant to assessing whether criminal record exclusion policies or practices are job related and consistent with business necessity. First, we emphasize that arrests and convictions are treated differently.

## 2. Arrests

The fact of an arrest does not establish that criminal conduct has occurred.<sup>101</sup> Arrests are not proof of criminal conduct. Many arrests do not result in criminal charges, or the charges are dismissed.<sup>102</sup> Even if an individual is charged and subsequently prosecuted, he is presumed innocent unless proven guilty.<sup>103</sup>

An arrest, however, may in some circumstances trigger an inquiry into whether the conduct underlying the arrest justifies an adverse employment action. Title VII calls for a fact-based analysis to determine if an exclusionary policy or practice is job related and consistent with business necessity. Therefore, an exclusion based on an arrest, in itself, is not job related and consistent with business necessity.

Another reason for employers not to rely on arrest records is that they may not report the final disposition of the arrest (e.g., not prosecuted, convicted, or acquitted). As documented in Section III.A., *supra*, the DOJ/BJIS reported that many arrest records in the FBI's III database and state criminal record repositories are not associated with final dispositions.<sup>104</sup> Arrest records also may include inaccuracies or may continue to be reported even if expunged or sealed.<sup>105</sup>

**Example 3: Arrest Record Is Not Grounds for Exclusion.** Mervin and Karen, a middle-aged African American couple, are driving to church in a predominantly white town. An officer stops them and interrogates them about their destination. When Mervin becomes annoyed and comments that his offense is simply “driving while Black,” the officer arrests him for disorderly conduct. The prosecutor decides not to file charges against Mervin, but the arrest remains in the police department's database and is reported in a background check when Mervin applies with his employer of fifteen years for a promotion to an executive position. The employer's practice is to deny such promotions to individuals with arrest records, even without a conviction, because it views an arrest record as an indicator of untrustworthiness and irresponsibility. If Mervin filed a Title VII charge based on these facts, and disparate impact based on race were established, the EEOC would find reasonable cause to believe that his employer violated Title VII.

Although an arrest record standing alone may not be used to deny an employment opportunity, an employer may make an employment decision based on the conduct underlying the arrest if the conduct makes the individual unfit for the position in question. The conduct, not the arrest, is relevant for employment purposes.

**Example 4: Employer's Inquiry into Conduct Underlying Arrest.**

Andrew, a Latino man, worked as an assistant principal in Elementary School for several years. After several ten and eleven-year-old girls attending the school accused him of touching them inappropriately on the chest, Andrew was arrested and charged with several counts of endangering the welfare of children and sexual abuse. Elementary School has a policy that requires suspension or termination of any employee who the school believes engaged in conduct that impacts the health or safety of the students. After learning of the accusations, the school immediately places Andrew on unpaid administrative leave pending an investigation. In the course of its investigation, the school provides Andrew a chance to explain the events and circumstances that led to his arrest. Andrew denies the allegations, saying that he may have brushed up against the girls in the crowded hallways or lunchroom, but that he doesn't really remember the incidents and does not have regular contact with any of the girls. The school also talks with the girls, and several of them recount touching in crowded situations. The school does not find Andrew's explanation credible. Based on Andrew's conduct, the school terminates his employment pursuant to its policy.

Andrew challenges the policy as discriminatory under Title VII. He asserts that it has a disparate impact based on national origin and that his employer may not suspend or terminate him based solely on an arrest without a conviction because he is innocent until proven guilty. After confirming that an arrest policy would have a disparate impact based on national origin, the EEOC concludes that no discrimination occurred. The school's policy is linked to conduct that is relevant to the particular jobs at issue, and the exclusion is made based on descriptions of the underlying conduct, not the fact of the arrest. The Commission finds no reasonable cause to believe Title VII was violated.

**3. Convictions**

By contrast, a record of a conviction will usually serve as sufficient evidence that a person engaged in particular conduct, given the procedural safeguards associated with trials and guilty pleas.<sup>106</sup> However, there may be evidence of an error in the record, an outdated record, or another reason for not relying on the evidence of a conviction. For example, a database may continue to report a conviction that was later expunged, or may continue to report as a felony an offense that was subsequently downgraded to a misdemeanor.<sup>107</sup>

Some states require employers to wait until late in the selection process to ask about convictions.<sup>108</sup> The policy rationale is that an employer is more likely to objectively assess the relevance of an applicant's conviction if it becomes known when the employer is already knowledgeable about the applicant's qualifications and experience.<sup>109</sup> As a best practice, and consistent with applicable laws,<sup>110</sup> the Commission recommends that employers not ask about

convictions on job applications and that, if and when they make such inquiries, the inquiries be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity.

#### **4. Determining Whether a Criminal Conduct Exclusion Is Job Related and Consistent with Business Necessity**

To establish that a criminal conduct exclusion that has a disparate impact is job related and consistent with business necessity under Title VII, the employer needs to show that the policy operates to effectively link specific criminal conduct, and its dangers, with the risks inherent in the duties of a particular position.

Two circumstances in which the Commission believes employers will consistently meet the “job related and consistent with business necessity” defense are as follows:

- The employer validates the criminal conduct screen for the position in question per the Uniform Guidelines on Employee Selection Procedures (Uniform Guidelines) standards (if data about criminal conduct as related to subsequent work performance is available and such validation is possible);<sup>111</sup> or
- The employer develops a targeted screen considering at least the nature of the crime, the time elapsed, and the nature of the job (the three *Green* factors), and then provides an opportunity for an individualized assessment for people excluded by the screen to determine whether the policy as applied is job related and consistent with business necessity.

The individualized assessment would consist of notice to the individual that he has been screened out because of a criminal conviction; an opportunity for the individual to demonstrate that the exclusion should not be applied due to his particular circumstances; and consideration by the employer as to whether the additional information provided by the individual warrants an exception to the exclusion and shows that the policy as applied is not job related and consistent with business necessity. *See* Section V.B.9, *infra* (examples of relevant considerations in individualized assessments).

Depending on the facts and circumstances, an employer may be able to justify a targeted criminal records screen solely under the *Green* factors. Such a screen would need to be narrowly tailored to identify criminal conduct with a demonstrably tight nexus to the position in question. Title VII thus does not necessarily require individualized assessment in all circumstances. However, the use of individualized assessments can help employers avoid Title VII liability by allowing them to consider more complete information on individual applicants or employees, as part of a policy that is job related and consistent with business necessity.

#### **5. Validation**

The Uniform Guidelines describe three different approaches to validating employment screens.<sup>112</sup> However, they recognize that “[t]here are circumstances in which a user cannot or

need not utilize” formal validation techniques and that in such circumstances an employer “should utilize selection procedures which are as job related as possible and which will minimize or eliminate adverse impact as set forth [in the following subsections].”<sup>113</sup> Although there may be social science studies that assess whether convictions are linked to future behaviors, traits, or conduct with workplace ramifications,<sup>114</sup> and thereby provide a framework for validating some employment exclusions, such studies are rare at the time of this drafting.

## **6. Detailed Discussion of the *Green* Factors and Criminal Conduct Screens**

Absent a validation study that meets the Uniform Guidelines’ standards, the *Green* factors provide the starting point for analyzing how specific criminal conduct may be linked to particular positions. The three *Green* factors are:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense, conduct and/or completion of the sentence; and
- The nature of the job held or sought.

### **a. The Nature and Gravity of the Offense or Conduct**

Careful consideration of the nature and gravity of the offense or conduct is the first step in determining whether a specific crime may be relevant to concerns about risks in a particular position. The nature of the offense or conduct may be assessed with reference to the harm caused by the crime (e.g., theft causes property loss). The legal elements of a crime also may be instructive. For example, a conviction for felony theft may involve deception, threat, or intimidation.<sup>115</sup> With respect to the gravity of the crime, offenses identified as misdemeanors may be less severe than those identified as felonies.

### **b. The Time that Has Passed Since the Offense, Conduct and/or Completion of the Sentence**

Employer policies typically specify the duration of a criminal conduct exclusion. While the *Green* court did not endorse a specific timeframe for criminal conduct exclusions, it did acknowledge that permanent exclusions from all employment based on any and all offenses were not consistent with the business necessity standard.<sup>116</sup> Subsequently, in *El*, the court noted that the plaintiff might have survived summary judgment if he had presented evidence that “there is a time at which a former criminal is no longer any more likely to recidivate than the average person . . . .”<sup>117</sup> Thus, the court recognized that the amount of time that had passed since the plaintiff’s criminal conduct occurred was probative of the risk he posed in the position in question.

Whether the duration of an exclusion will be sufficiently tailored to satisfy the business necessity standard will depend on the particular facts and circumstances of each case. Relevant and available information to make this assessment includes, for example, studies demonstrating how much the risk of recidivism declines over a specified time.<sup>118</sup>

### **c. The Nature of the Job Held or Sought**

Finally, it is important to identify the particular job(s) subject to the exclusion. While a factual inquiry may begin with identifying the job title, it also encompasses the nature of the job's duties (e.g., data entry, lifting boxes), identification of the job's essential functions, the circumstances under which the job is performed (e.g., the level of supervision, oversight, and interaction with co-workers or vulnerable individuals), and the environment in which the job's duties are performed (e.g., out of doors, in a warehouse, in a private home). Linking the criminal conduct to the essential functions of the position in question may assist an employer in demonstrating that its policy or practice is job related and consistent with business necessity because it "bear[s] a demonstrable relationship to successful performance of the jobs for which it was used."<sup>119</sup>

### **7. Examples of Criminal Conduct Exclusions that Do Not Consider the *Green* Factors**

A policy or practice requiring an automatic, across-the-board exclusion from all employment opportunities because of any criminal conduct is inconsistent with the *Green* factors because it does not focus on the dangers of particular crimes and the risks in particular positions. As the court recognized in *Green*, "[w]e cannot conceive of any business necessity that would automatically place every individual convicted of any offense, except a minor traffic offense, in the permanent ranks of the unemployed."<sup>120</sup>

**Example 5: Exclusion Is Not Job Related and Consistent with Business Necessity.** The National Equipment Rental Company uses the Internet to accept job applications for all positions. All applicants must answer certain questions before they are permitted to submit their online application, including "have you ever been convicted of a crime?" If the applicant answers "yes," the online application process automatically terminates, and the applicant sees a screen that simply says "Thank you for your interest. We cannot continue to process your application at this time."

The Company does not have a record of the reasons why it adopted this exclusion, and it does not have information to show that convictions for all offenses render all applicants unacceptable risks in all of its jobs, which range from warehouse work, to delivery, to management positions. If a Title VII charge were filed based on these facts, and there was a disparate impact on a Title VII-protected basis, the EEOC would find reasonable cause to believe that the blanket exclusion was not job related and consistent with business necessity because the risks associated with all convictions are not pertinent to all of the Company's jobs.

**Example 6: Exclusion Is Not Job Related and Consistent with Business Necessity.** Leo, an African American man, has worked



successfully at PR Agency as an account executive for three years. After a change of ownership, the new owners adopt a policy under which it will not employ anyone with a conviction. The policy does not allow for any individualized assessment before exclusion. The new owners, who are highly respected in the industry, pride themselves on employing only the “best of the best” for every position. The owners assert that a quality workforce is a key driver of profitability.

Twenty years earlier, as a teenager, Leo pled guilty to a misdemeanor assault charge. During the intervening twenty years, Leo graduated from college and worked successfully in advertising and public relations without further contact with the criminal justice system. At PR Agency, all of Leo’s supervisors assessed him as a talented, reliable, and trustworthy employee, and he has never posed a risk to people or property at work. However, once the new ownership of PR Agency learns about Leo’s conviction record through a background check, it terminates his employment. It refuses to reconsider its decision despite Leo’s positive employment history at PR Agency.

Leo files a Title VII charge alleging that PR Agency’s conviction policy has a disparate impact based on race and is not job related for the position in question and consistent with business necessity. After confirming disparate impact, the EEOC considers PR Agency’s defense that it employs only the “best of the best” for every position, and that this necessitates excluding everyone with a conviction. PR Agency does not show that all convictions are indicative of risk or danger in all its jobs for all time, under the *Green* factors. Nor does PR Agency provide any factual support for its assertion that having a conviction is necessarily indicative of poor work or a lack of professionalism. The EEOC concludes that there is reasonable cause to believe that the Agency’s policy is not job related for the position in question and consistent with business necessity.<sup>121</sup>

## **8. Targeted Exclusions that Are Guided by the *Green* Factors**

An employer policy or practice of excluding individuals from particular positions for specified criminal conduct within a defined time period, as guided by the *Green* factors, is a targeted exclusion. Targeted exclusions are tailored to the rationale for their adoption, in light of the particular criminal conduct and jobs involved, taking into consideration fact-based evidence, legal requirements, and/or relevant and available studies.

As discussed above in Section V.B.4, depending on the facts and circumstances, an employer may be able to justify a targeted criminal records screen solely under the *Green* factors. Such a screen would need to be narrowly tailored to identify criminal conduct with a demonstrably tight nexus to the position in question. Title VII thus does not necessarily require individualized assessment in all circumstances. However, the use of individualized assessments can help employers avoid Title VII liability by allowing them to consider more complete information on individual applicants or employees, as part of a policy that is job related and consistent with business necessity.

## **9. Individualized Assessment**

Individualized assessment generally means that an employer informs the individual that he may be excluded because of past criminal conduct; provides an opportunity to the individual to demonstrate that the exclusion does not properly apply to him; and considers whether the individual's additional information shows that the policy as applied is not job related and consistent with business necessity.

The individual's showing may include information that he was not correctly identified in the criminal record, or that the record is otherwise inaccurate. Other relevant individualized evidence includes, for example:

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Older age at the time of conviction, or release from prison;<sup>122</sup>
- Evidence that the individual performed the same type of work, post conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;<sup>123</sup>
- Rehabilitation efforts, e.g., education/training;<sup>124</sup>
- Employment or character references and any other information regarding fitness for the particular position;<sup>125</sup> and
- Whether the individual is bonded under a federal, state, or local bonding program.<sup>126</sup>

If the individual does not respond to the employer's attempt to gather additional information about his background, the employer may make its employment decision without the information.

**Example 7: Targeted Screen with Individualized Assessment Is Job Related and Consistent with Business Necessity.** County Community Center rents meeting rooms to civic organizations and small businesses, party rooms to families and social groups, and athletic facilities to local recreational sports leagues. The County has a targeted rule prohibiting anyone with a conviction for theft crimes (e.g., burglary, robbery, larceny, identity theft) from working in a position with access to personal financial

information for at least four years after the conviction or release from incarceration. This rule was adopted by the County's Human Resources Department based on data from the County Corrections Department, national criminal data, and recent recidivism research for theft crimes. The Community Center also offers an opportunity for individuals identified for exclusion to provide information showing that the exclusion should not be applied to them.

Isaac, who is Hispanic, applies to the Community Center for a full-time position as an administrative assistant, which involves accepting credit card payments for room rentals, in addition to having unsupervised access to the personal belongings of people using the facilities. After conducting a background check, the County learns that Isaac pled guilty eighteen months earlier, at age twenty, to credit card fraud, and that he did not serve time in prison. Isaac confirms these facts, provides a reference from the restaurant where he now works on Saturday nights, and asks the County for a "second chance" to show that he is trustworthy. The County tells Isaac that it is still rejecting his employment application because his criminal conduct occurred eighteen months ago and is directly pertinent to the job in question. The information he provided did nothing to dispel the County's concerns.

Isaac challenges this rejection under Title VII, alleging that the policy has a disparate impact on Hispanics and is not job related and consistent with business necessity. After confirming disparate impact, the EEOC finds that this screen was carefully tailored to assess unacceptable risk in relevant positions, for a limited time period, consistent with the evidence, and that the policy avoided overbroad exclusions by allowing individuals an opportunity to explain special circumstances regarding their criminal conduct. Thus, even though the policy has a disparate impact on Hispanics, the EEOC does not find reasonable cause to believe that discrimination occurred because the policy is job related and consistent with business necessity.<sup>127</sup>

**Example 8: Targeted Exclusion Without Individualized Assessment Is Not Job Related and Consistent with Business Necessity.** "Shred 4 You" employs over 100 people to pick up discarded files and sensitive materials from offices, transport the materials to a secure facility, and shred and recycle them. The owner of "Shred 4 You" sells the company to a competitor, known as "We Shred." Employees of "Shred 4 You" must reapply for employment with "We Shred" and undergo a background check. "We Shred" has a targeted criminal conduct exclusion policy that prohibits the employment of anyone who has been convicted of any crime related to theft or fraud in the past five years, and the policy does not provide for any individualized consideration. The company explains that its clients entrust it with handling sensitive and confidential information

and materials; therefore, it cannot risk employing people who pose an above-average risk of stealing information.

Jamie, who is African American, worked successfully for “Shred 4 You” for five years before the company changed ownership. Jamie applies for his old job, and “We Shred” reviews Jamie’s performance appraisals, which include high marks for his reliability, trustworthiness, and honesty. However, when “We Shred” does a background check, it finds that Jamie pled guilty to misdemeanor insurance fraud five years ago, because he exaggerated the costs of several home repairs after a winter storm. “We Shred” management informs Jamie that his guilty plea is evidence of criminal conduct and that his employment will be terminated. Jamie asks management to consider his reliable and honest performance in the same job at “Shred 4 You,” but “We Shred” refuses to do so. The employer’s conclusion that Jamie’s guilty plea demonstrates that he poses an elevated risk of dishonesty is not factually based given Jamie’s history of trustworthiness in the same job. After confirming disparate impact based on race (African American), the EEOC finds reasonable cause to believe that Title VII was violated because the targeted exclusion was not job related and consistent with business necessity based on these facts.

### **C. Less Discriminatory Alternatives**

If an employer successfully demonstrates that its policy or practice is job related for the position in question and consistent with business necessity, a Title VII plaintiff may still prevail by demonstrating that there is a less discriminatory “alternative employment practice” that serves the employer’s legitimate goals as effectively as the challenged practice but that the employer refused to adopt.<sup>128</sup>

## **VI. Positions Subject to Federal Prohibitions or Restrictions on Individuals with Records of Certain Criminal Conduct**

In some industries, employers are subject to federal statutory and/or regulatory requirements that prohibit individuals with certain criminal records from holding particular positions or engaging in certain occupations. Compliance with federal laws and/or regulations is a defense to a charge of discrimination. However, the EEOC will continue to coordinate with other federal departments and agencies with the goal of maximizing federal regulatory consistency with respect to the use of criminal history information in employment decisions.<sup>129</sup>

### **A. Hiring in Certain Industries**

Federal laws and regulations govern the employment of individuals with specific convictions in certain industries or positions in both the private and public sectors. For example, federal law excludes an individual who was convicted in the previous ten years of specified crimes from working as a security screener or otherwise having unescorted access to the secure areas of an airport.<sup>130</sup> There are equivalent requirements for federal law enforcement officers,<sup>131</sup>

child care workers in federal agencies or facilities,<sup>132</sup> bank employees,<sup>133</sup> and port workers,<sup>134</sup> among other positions.<sup>135</sup> Title VII does not preempt these federally imposed restrictions. However, if an employer decides to impose an exclusion that goes beyond the scope of a federally imposed restriction, the discretionary aspect of the policy would be subject to Title VII analysis.

**Example 9: Exclusion Is Not Job Related and Consistent with Business Necessity.** Your Bank has a rule prohibiting anyone with convictions for any type of financial or fraud-related crimes within the last twenty years from working in positions with access to customer financial information, even though the federal ban is ten years for individuals who are convicted of any criminal offense involving dishonesty, breach of trust, or money laundering from serving in such positions.

Sam, who is Latino, applies to Your Bank to work as a customer service representative. A background check reveals that Sam was convicted of a misdemeanor for misrepresenting his income on a loan application fifteen years earlier. Your Bank therefore rejects Sam, and he files a Title VII charge with the EEOC, alleging that the Bank's policy has a disparate impact based on national origin and is not job related and consistent with business necessity. Your Bank asserts that its policy does not cause a disparate impact and that, even if it does, it is job related for the position in question because customer service representatives have regular access to financial information and depositors must have "100% confidence" that their funds are safe. However, Your Bank does not offer evidence showing that there is an elevated likelihood of committing financial crimes for someone who has been crime-free for more than ten years. After establishing that the Bank's policy has a disparate impact based on national origin, the EEOC finds that the policy is not job related for the position in question and consistent with business necessity. The Bank's justification for adding ten years to the federally mandated exclusion is insufficient because it is only a generalized concern about security, without proof.

## **B. Obtaining Occupational Licenses**

Title VII also does not preempt federal statutes and regulations that govern eligibility for occupational licenses and registrations. These restrictions cover diverse sectors of the economy including the transportation industry,<sup>136</sup> the financial industry,<sup>137</sup> and import/export activities,<sup>138</sup> among others.<sup>139</sup>

## **C. Waiving or Appealing Federally Imposed Occupational Restrictions**

Several federal statutes and regulations provide a mechanism for employers or individuals to appeal or apply for waivers of federally imposed occupational restrictions. For example, unless a bank receives prior written consent from the Federal Deposit Insurance

Corporation (FDIC), an individual convicted of a criminal offense involving dishonesty, breach of trust, money laundering, or another financially related crime may not work in, own, or control “an insured depository institution” (e.g., bank) for ten years under the Federal Deposit Insurance Act.<sup>140</sup> To obtain such FDIC consent, the insured institution must file an application for a waiver on behalf of the particular individual.<sup>141</sup> Alternatively, if the insured institution does not apply for the waiver on the individual’s behalf, the individual may file a request directly with the FDIC for a waiver of the institution filing requirement, demonstrating “substantial good cause” to grant the waiver.<sup>142</sup> If the FDIC grants the individual’s waiver request, the individual can then file an application directly with the FDIC for consent to work for the insured institution in question.<sup>143</sup> Once the institution, or the individual, submits the application, the FDIC’s criminal record waiver review process requires consideration of mitigating factors that are consistent with Title VII, including evidence of rehabilitation, and the nature and circumstances of the crime.<sup>144</sup>

Additionally, port workers who are denied the Transportation Workers Identification Credential (TWIC) based on their conviction record may seek a waiver for certain permanently disqualifying offenses or interim disqualifying offenses, and also may file an individualized appeal from the Transportation Security Administration’s initial determination of threat assessment based on the conviction.<sup>145</sup> The Maritime Transportation Security Act, which requires all port workers to undergo a criminal background check to obtain a TWIC,<sup>146</sup> provides that individuals with convictions for offenses such as espionage, treason, murder, and a federal crime of terrorism are permanently disqualified from obtaining credentials, but those with convictions for firearms violations and distribution of controlled substances may be temporarily disqualified.<sup>147</sup> Most offenses related to dishonesty are only temporarily disqualifying.<sup>148</sup>

**Example 10: Consideration of Federally Imposed Occupational Restrictions.** John Doe applies for a position as a truck driver for Truckers USA. John’s duties will involve transporting cargo to, from, and around ports, and Truckers USA requires all of its port truck drivers to have a TWIC. The Transportation Security Administration (TSA) conducts a criminal background check and may deny the credential to applicants who have permanently disqualifying criminal offenses in their background as defined by federal law. After conducting the background check for John Doe, TSA discovers that he was convicted nine years earlier for conspiracy to use weapons of mass destruction. TSA denies John a security card because this is a permanently disqualifying criminal offense under federal law.<sup>149</sup> John, who points out that he was a minor at the time of the conviction, requests a waiver by TSA because he had limited involvement and no direct knowledge of the underlying crime at the time of the offense. John explains that he helped a friend transport some chemical materials that the friend later tried to use to damage government property. TSA refuses to grant John’s waiver request because a conviction for conspiracy to use weapons of mass destruction is not subject to the TSA’s waiver procedures.<sup>150</sup> Based on this denial, Truckers USA rejects John’s application for the port truck driver position. Title VII does not override Truckers USA’s policy because the policy is consistent with another federal law.

While Title VII does not mandate that an employer seek such waivers, where an employer does seek waivers it must do so in a nondiscriminatory manner.

#### **D. Security Clearances**

The existence of a criminal record may result in the denial of a federal security clearance, which is a prerequisite for a variety of positions with the federal government and federal government contractors.<sup>151</sup> A federal security clearance is used to ensure employees' trustworthiness, reliability, and loyalty before providing them with access to sensitive national security information.<sup>152</sup> Under Title VII's national security exception, it is not unlawful for an employer to "fail or refuse to hire and employ" an individual because "such individual has not fulfilled or has ceased to fulfill" the federal security requirements.<sup>153</sup> This exception focuses on whether the position in question is, in fact, subject to national security requirements that are imposed by federal statute or Executive Order, and whether the adverse employment action actually resulted from the denial or revocation of a security clearance.<sup>154</sup> Procedural requirements related to security clearances must be followed without regard to an individual's race, color, religion, sex, or national origin.<sup>155</sup>

#### **E. Working for the Federal Government**

Title VII provides that, with limited coverage exceptions, "[a]ll personnel actions affecting employees or applicants for employment . . . shall be made free from any discrimination based on race, color, religion, sex, or national origin."<sup>156</sup> The principles discussed above in this Guidance apply in the federal employment context. In most circumstances, individuals with criminal records are not automatically barred from working for the federal government.<sup>157</sup> However, the federal government imposes criminal record restrictions on its workforce through "suitability" requirements for certain positions.<sup>158</sup> The federal government's Office of Personnel Management (OPM) defines suitability as "determinations based on a person's character or conduct that may have an impact on the integrity or efficiency of the service."<sup>159</sup> Under OPM's rules, agencies may bar individuals from federal employment for up to three years if they are found unsuitable based on criminal or dishonest conduct, among other factors.<sup>160</sup> OPM gives federal agencies the discretion to consider relevant mitigating criteria when deciding whether an individual is suitable for a federal position.<sup>161</sup> These mitigating criteria, which are consistent with the three *Green* factors and also provide an individualized assessment of the applicant's background, allow consideration of: (1) the nature of the position for which the person is applying or in which the person is employed; (2) the nature and seriousness of the conduct; (3) the circumstances surrounding the conduct; (4) the recency of the conduct; (5) the age of the person involved at the time of the conduct; (6) contributing societal conditions; and (7) the absence or presence of rehabilitation or efforts toward rehabilitation.<sup>162</sup> In general, OPM requires federal agencies and departments to consider hiring an individual with a criminal record if he is the best candidate for the position in question and can comply with relevant job requirements.<sup>163</sup> The EEOC continues to coordinate with OPM to achieve employer best practices in the federal sector.<sup>164</sup>

## **VII. Positions Subject to State and Local Prohibitions or Restrictions on Individuals with Records of Certain Criminal Conduct**

States and local jurisdictions also have laws and/or regulations that restrict or prohibit the employment of individuals with records of certain criminal conduct.<sup>165</sup> Unlike federal laws or regulations, however, state and local laws or regulations are preempted by Title VII if they “purport[] to require or permit the doing of any act which would be an unlawful employment practice” under Title VII.<sup>166</sup> Therefore, if an employer’s exclusionary policy or practice is *not* job related and consistent with business necessity, the fact that it was adopted to comply with a state or local law or regulation does not shield the employer from Title VII liability.<sup>167</sup>

**Example 11: State Law Exclusion Is Job Related and Consistent with Business Necessity.** Elijah, who is African American, applies for a position as an office assistant at Pre-School, which is in a state that imposes criminal record restrictions on school employees. Pre-School, which employs twenty-five full- and part-time employees, uses all of its workers to help with the children. Pre-School performs a background check and learns that Elijah pled guilty to charges of indecent exposure two years ago. After being rejected for the position because of his conviction, Elijah files a Title VII disparate impact charge based on race to challenge Pre-School’s policy. The EEOC conducts an investigation and finds that the policy has a disparate impact and that the exclusion is job related for the position in question and consistent with business necessity because it addresses serious safety risks of employment in a position involving regular contact with children. As a result, the EEOC would not find reasonable cause to believe that discrimination occurred.

**Example 12: State Law Exclusion Is Not Consistent with Title VII.** County Y enforces a law that prohibits all individuals with a criminal conviction from working for it. Chris, an African American man, was convicted of felony welfare fraud fifteen years ago, and has not had subsequent contact with the criminal justice system. Chris applies to County Y for a job as an animal control officer trainee, a position that involves learning how to respond to citizen complaints and handle animals. The County rejects Chris’s application as soon as it learns that he has a felony conviction. Chris files a Title VII charge, and the EEOC investigates, finding disparate impact based on race and also that the exclusionary policy is not job related and consistent with business necessity. The County cannot justify rejecting everyone with any conviction from all jobs. Based on these facts, County Y’s law “purports to require or permit the doing of an[] act which would be an unlawful employment practice” under Title VII.



## **VIII. Employer Best Practices**

The following are examples of best practices for employers who are considering criminal record information when making employment decisions.

### *General*

- Eliminate policies or practices that exclude people from employment based on any criminal record.
- Train managers, hiring officials, and decisionmakers about Title VII and its prohibition on employment discrimination.

### *Developing a Policy*

- Develop a narrowly tailored written policy and procedure for screening applicants and employees for criminal conduct.
  - Identify essential job requirements and the actual circumstances under which the jobs are performed.
  - Determine the specific offenses that may demonstrate unfitness for performing such jobs.
    - Identify the criminal offenses based on all available evidence.
  - Determine the duration of exclusions for criminal conduct based on all available evidence.
    - Include an individualized assessment.
  - Record the justification for the policy and procedures.
  - Note and keep a record of consultations and research considered in crafting the policy and procedures.
- Train managers, hiring officials, and decisionmakers on how to implement the policy and procedures consistent with Title VII.

### *Questions about Criminal Records*

- When asking questions about criminal records, limit inquiries to records for which exclusion would be job related for the position in question and consistent with business necessity.

*Confidentiality*

- Keep information about applicants' and employees' criminal records confidential. Only use it for the purpose for which it was intended.

Approved by the Commission:

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Chair Jacqueline A. Berrien

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Date

## **ENDNOTES**

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<sup>1</sup> 42 U.S.C. § 2000e *et seq.* The EEOC also enforces other anti-discrimination laws including: Title I of the Americans with Disabilities Act of 1990, as amended (ADA), and Section 501 of the Rehabilitation Act, as amended, which prohibit employment discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended (ADEA), which prohibits discrimination on the basis of age 40 or above; Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits discrimination on the basis of genetic information; and the Equal Pay Act of 1963, as amended (EPA), which requires employers to pay male and female employees at the same establishment equal wages for equal work.

<sup>2</sup> All entities covered by Title VII are subject to this analysis. *See* 42 U.S.C. § 2000e-2 (anti-discrimination provisions); 42 U.S.C. § 2000e(b)–(e) (defining “employer,” “employment agency,” and “labor organization”); 42 U.S.C. § 2000e-16(a) (prohibiting discriminatory employment practices by federal departments and agencies). For purposes of this Guidance, the term “employer” is used in lieu of listing all Title VII-covered entities. The Commission considers other coverage questions that arise in particular charges involving, for example, joint employment or third party interference in *Compliance Manual Section 2: Threshold Issues*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, § 2-III B., *Covered Entities*, <http://www.eeoc.gov/policy/docs/threshold.html#2-III-B> (last visited April 23, 2012).

<sup>3</sup> For the purposes of this Guidance, references to “contact” with the criminal justice system may include, for example, an arrest, charge, indictment, citation, conviction, incarceration, probation, or parole.

<sup>4</sup> *See* THOMAS P. BONCZAR, BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, PREVALENCE OF IMPRISONMENT IN THE U.S. POPULATION, 1974–2001, at 3 (2003), <http://bjs.ojp.usdoj.gov/content/pub/pdf/piusp01.pdf> [hereinafter PREVALENCE OF IMPRISONMENT] (“Between 1974 and 2001 the number of former prisoners living in the United States more than doubled, from 1,603,000 to 4,299,000.”); SEAN ROSENMERKEL ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, FELONY SENTENCES IN STATE COURTS, 2006 – STATISTICAL TABLES 1 (2009), <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf> (reporting that between 1990 and 2006, there has been a 37% increase in the number of felony offenders sentenced in state courts); *see also* PEW CTR. ON THE STATES, ONE IN 31: THE LONG REACH OF AMERICAN CORRECTIONS 4 (2009), [http://www.pewcenteronthestates.org/uploadedFiles/PSPP\\_1in31\\_report\\_FINAL\\_WEB\\_3-26-09.pdf](http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf) [hereinafter ONE IN 31] (“During the past quarter-century, the number of prison and jail inmates has grown by 274 percent . . . [bringing] the total population in custody to 2.3 million. During the same period, the number under community supervision grew by a staggering 3,535,660 to a total of 5.1 million.”); PEW CTR. ON THE STATES, ONE IN 100: BEHIND BARS IN AMERICA 2008, at 3 (2008), [http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS\\_Prison08\\_FINAL\\_2-1-1\\_FORWEB.pdf](http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf) (“[M]ore than one in every 100 adults is now confined in an American jail or

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prison.”); Robert Brame, Michael G. Turner, Raymond Paternoster, & Shawn D. Bushway, *Cumulative Prevalence of Arrest From Ages 8 to 23 in a National Sample*, 129 PEDIATRICS 21, 25, 26 (2012) (finding that approximately 1 out of 3 of all American youth will experience at least 1 arrest for a nontraffic offense by the age of 23).

<sup>5</sup> See JOHN SCHMITT & KRIS WARNER, CTR. FOR ECON. & POLICY RESEARCH, EX-OFFENDERS AND THE LABOR MARKET 12 (2010), [www.cepr.net/documents/publications/ex-offenders-2010-11.pdf](http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf) (“In 2008, ex-prisoners were 2.9 to 3.2 percent of the total working-age population (excluding those currently in prison or jail) or about one in 33 working-age adults. Ex-felons were a larger share of the total working-age population: 6.6 to 7.4 percent, or about one in 15 working-age adults [not all felons serve prison terms].”); *see id.* at 3 (concluding that “in the absence of some reform of the criminal justice system, the share of ex-offenders in the working-age population will rise substantially in coming decades”).

<sup>6</sup> PREVALENCE OF IMPRISONMENT, *supra* note 4, at 4, Table 3.

<sup>7</sup> *Id.*

<sup>8</sup> ONE IN 31, *supra* note 4, at 5 (noting that when all of the individuals who are probationers, parolees, prisoners or jail inmates are added up, the total is more than 7.3 million adults; this is more than the populations of Chicago, Philadelphia, San Diego, and Dallas combined, and larger than the populations of 38 states and the District of Columbia).

<sup>9</sup> PREVALENCE OF IMPRISONMENT, *supra* note 4, at 7.

<sup>10</sup> *Id.* at 5, Table 5; *cf.* PEW CTR. ON THE STATES, COLLATERAL COSTS: INCARCERATION’S EFFECT ON ECONOMIC MOBILITY 6 (2010), [http://www.pewcenteronthestates.org/uploadedFiles/Collateral\\_Costs.pdf?n=8653](http://www.pewcenteronthestates.org/uploadedFiles/Collateral_Costs.pdf?n=8653) (“Simply stated, incarceration in America is concentrated among African American men. While 1 in every 87 white males ages 18 to 64 is incarcerated and the number for similarly-aged Hispanic males is 1 in 36, for black men it is 1 in 12.”). Incarceration rates are even starker for 20-to-34-year-old men without a high school diploma or GED: 1 in 8 White males in this demographic group is incarcerated, compared to 1 in 14 Hispanic males, and 1 in 3 Black males. PEW CTR. ON THE STATES, *supra*, at 8, Figure 2.

<sup>11</sup> This document uses the terms “Black” and “African American,” and the terms “Hispanic” and “Latino,” interchangeably.

<sup>12</sup> See *infra* notes 65–67 (citing data for the arrest rates and population statistics for African Americans and Hispanics).

<sup>13</sup> PREVALENCE OF IMPRISONMENT, *supra* note 4, at 1.

<sup>14</sup> *Id.* at 8.

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<sup>15</sup> See *Policy Statement on the Issue of Conviction Records Under Title VII of the Civil Rights Act of 1964*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N (Feb. 4, 1987), <http://www.eeoc.gov/policy/docs/convict1.html>; *EEOC Policy Statement on the Use of Statistics in Charges Involving the Exclusion of Individuals with Conviction Records from Employment*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N (July 29, 1987), <http://www.eeoc.gov/policy/docs/convict2.html>; *Policy Guidance on the Consideration of Arrest Records in Employment Decisions Under Title VII*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N (Sept. 7, 1990), [http://www.eeoc.gov/policy/docs/arrest\\_records.html](http://www.eeoc.gov/policy/docs/arrest_records.html); *Compliance Manual Section 15: Race & Color Discrimination*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, § 15-VI.B.2 (April 19, 2006), <http://www.eeoc.gov/policy/docs/race-color.pdf>. See also EEOC Decision No. 72-1497 (1972) (challenging a criminal record exclusion policy based on “serious crimes”); EEOC Decision No. 74-89 (1974) (challenging a policy where a felony conviction was considered an adverse factor that would lead to disqualification); EEOC Decision No. 78-03 (1977) (challenging an exclusion policy based on felony or misdemeanor convictions involving moral turpitude or the use of drugs); EEOC Decision No. 78-35 (1978) (concluding that an employee’s discharge was reasonable given his pattern of criminal behavior and the severity and recentness of his criminal conduct).

<sup>16</sup> In 2011, U.S. Attorney General Eric Holder assembled a Cabinet-level interagency Reentry Council to support the federal government’s efforts to promote the successful reintegration of ex-offenders back into their communities. *National Reentry Resource Center – Federal Interagency Reentry Council*, <http://www.nationalreentryresourcecenter.org/reentry-council> (last visited April 23, 2012). As a part of the Council’s efforts, it has focused on removing barriers to employment for ex-offenders to reduce recidivism by publishing several fact sheets on employing individuals with criminal records. See, e.g., FED. INTERAGENCY REENTRY COUNCIL, REENTRY MYTHBUSTER! ON FEDERAL HIRING POLICIES (2011), [http://www.nationalreentryresourcecenter.org/documents/0000/1083/Reentry\\_Council\\_Mythbuster\\_Fed\\_Employment.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1083/Reentry_Council_Mythbuster_Fed_Employment.pdf); FED. INTERAGENCY REENTRY COUNCIL, REENTRY MYTHBUSTER! ON HIRING/CRIMINAL RECORDS GUIDANCE (2011), [http://www.nationalreentryresourcecenter.org/documents/0000/1082/Reentry\\_Council\\_Mythbuster\\_Employment.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1082/Reentry_Council_Mythbuster_Employment.pdf); FED. INTERAGENCY REENTRY COUNCIL, REENTRY MYTHBUSTER! CRIMINAL HISTORIES AND EMPLOYMENT BACKGROUND CHECKS (2011), [http://www.nationalreentryresourcecenter.org/documents/0000/1176/Reentry\\_Council\\_Mythbuster\\_FCRA\\_Employment.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1176/Reentry_Council_Mythbuster_FCRA_Employment.pdf); FED. INTERAGENCY REENTRY COUNCIL, REENTRY MYTHBUSTER! ON FEDERAL BONDING PROGRAM (2011), [http://www.nationalreentryresourcecenter.org/documents/0000/1061/Reentry\\_Council\\_Mythbuster\\_Federal\\_Bonding.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1061/Reentry_Council_Mythbuster_Federal_Bonding.pdf).

In addition to these federal efforts, several state law enforcement agencies have embraced initiatives and programs that encourage the employment of ex-offenders. For example, Texas’ Department of Criminal Justice has a Reentry and Integration Division and within that Division, a Reentry Task Force Workgroup. See *Reentry and Integration Division-Reentry Task Force*, TEX. DEP’T OF CRIMINAL JUSTICE, [http://www.tdcj.state.tx.us/divisions/rid/rid\\_texas\\_reentry\\_task\\_force.html](http://www.tdcj.state.tx.us/divisions/rid/rid_texas_reentry_task_force.html) (last visited April 23, 2012). One of the Workgroups in this Task Force specifically focuses on identifying

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employment opportunities for ex-offenders and barriers that affect ex-offenders' access to employment or vocational training programs. *Reentry and Integration Division – Reentry Task Force Workgroups*, TEX. DEP'T OF CRIMINAL JUSTICE, [http://www.tdcj.state.tx.us/divisions/rid/r\\_workgroup/rid\\_workgroup\\_employment.html](http://www.tdcj.state.tx.us/divisions/rid/r_workgroup/rid_workgroup_employment.html) (last visited April 23, 2012). Similarly, Ohio's Department of Rehabilitation and Correction has an Offender Workforce Development Office that "works with departmental staff and correctional institutions within the Ohio Department of Rehabilitation and Correction to prepare offenders for employment and the job search process." *Jobs for Ohio Offenders*, OHIO DEP'T OF REHAB. AND CORR. OFFENDER WORKFORCE DEV., <http://www.drc.ohio.gov/web/JOBOFFEN.HTM> (last updated Aug. 9, 2010). Law enforcement agencies in other states such as Indiana and Florida have also recognized the importance of encouraging ex-offender employment. *See, e.g., IDOC: Road to Re-Entry*, IND. DEP'T OF CORR., <http://www.in.gov/idoc/reentry/index.htm> (last visited April 23, 2012) (describing various services and programs that are available to ex-offenders to help them to obtain employment); FLA. DEP'T OF CORRS., RECIDIVISM REDUCTION STRATEGIC PLAN: FISCAL YEAR 2009-2014, at 11, 12 (2009), <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (identifying the lack of employment as one of the barriers to successful ex-offender reentry).

<sup>17</sup> CARL R. ERNST & LES ROSEN, "NATIONAL" CRIMINAL HISTORY DATABASES 1 (2002), <http://www.brbpub.com/articles/CriminalHistoryDB.pdf>.

<sup>18</sup> LEXISNEXIS, CRIMINAL BACKGROUND CHECKS: WHAT NON-PROFITS NEED TO KNOW ABOUT CRIMINAL RECORDS 4 (2009), [http://www.lexisnexus.com/risk/nonprofit/documents/Volunteer\\_Screening\\_White\\_Paper.pdf](http://www.lexisnexus.com/risk/nonprofit/documents/Volunteer_Screening_White_Paper.pdf).

<sup>19</sup> *Id.*

<sup>20</sup> ERNST & ROSEN, *supra* note 17, at 1; NAT'L ASS'N OF PROF'L BACKGROUND SCREENERS, CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT PURPOSES 5, [http://www.napbs.com/files/public/Learn\\_More/White\\_Papers/CriminalBackgroundChecks.pdf](http://www.napbs.com/files/public/Learn_More/White_Papers/CriminalBackgroundChecks.pdf).

<sup>21</sup> LEXISNEXIS, *supra* note 18, at 6. *See also* NAT'L ASS'N OF PROF'L BACKGROUND SCREENERS, *supra* note 20 at 5.

<sup>22</sup> ERNST & ROSEN, *supra* note 17, at 1.

<sup>23</sup> *Id.*

<sup>24</sup> *See* SEARCH, THE NATIONAL TASK FORCE ON THE CRIMINAL BACKGROUNDING OF AMERICA 3, 4 (2005), <http://www.search.org/files/pdf/ReportofNTFCBA.pdf>. Registries and watch lists can also include federal and international terrorist watch lists, and registries of individuals who are being investigated for certain types of crimes, such as gang-related crimes. *Id.* *See also* LEXISNEXIS, *supra* note 18, at 5 (reporting that "all 50 states currently have a publicly available sex offender registry").

<sup>25</sup> *See* U.S. DEP'T OF JUSTICE, THE ATTORNEY GENERAL'S REPORT ON CRIMINAL HISTORY

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BACKGROUND CHECKS 4 (2006), [http://www.justice.gov/olp/ag\\_bgchecks\\_report.pdf](http://www.justice.gov/olp/ag_bgchecks_report.pdf) [hereinafter BACKGROUND CHECKS]. *See also* ERNST & ROSEN, *supra* note 17, at 2.

<sup>26</sup> *See* NAT'L ASS'N OF PROF'L BACKGROUND SCREENERS, *supra* note 20, at 5. *See also* LEXISNEXIS, *supra* note 18, at 5.

<sup>27</sup> LEXISNEXIS, *supra* note 18, at 5. *See also* AM. ASS'N OF COLLS. OF PHARMACY, REPORT OF THE AACP CRIMINAL BACKGROUND CHECK ADVISORY PANEL 6-7 (2006), <http://www.aacp.org/resources/academicpolicies/admissionsguidelines/Documents/AACPBackgroundChkRpt.pdf>.

<sup>28</sup> AM. ASS'N OF COLLS. OF PHARMACY, *supra* note 27, at 6-7.

<sup>29</sup> BACKGROUND CHECKS, *supra* note 25, at 4.

<sup>30</sup> *Id.*

<sup>31</sup> NAT'L ASS'N OF PROF'L BACKGROUND SCREENERS, *supra* note 20, at 5.

<sup>32</sup> BACKGROUND CHECKS, *supra* note 25, at 4.

<sup>33</sup> *Id.* at 3.

<sup>34</sup> *See id.* ("Non-criminal justice screening using FBI criminal history records is typically done by a government agency applying suitability criteria that have been established by law or the responsible agency.").

<sup>35</sup> *Id.* at 5.

<sup>36</sup> *Id.* at 4.

<sup>37</sup> DENNIS A. DEBACCO & OWEN M. GREENSPAN, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SURVEY OF STATE CRIMINAL HISTORY INFORMATION SYSTEMS, 2010, at 2 (2011), <https://www.ncjrs.gov/pdffiles1/bjs/grants/237253.pdf> [hereinafter STATE CRIMINAL HISTORY].

<sup>38</sup> *See* BACKGROUND CHECKS, *supra* note 25, at 17.

<sup>39</sup> SEARCH, REPORT OF THE NATIONAL TASK FORCE ON THE COMMERCIAL SALE OF CRIMINAL JUSTICE RECORD INFORMATION 83 (2005), [www.search.org/files/pdf/RNTFCSCJRI.pdf](http://www.search.org/files/pdf/RNTFCSCJRI.pdf); *see also* Douglas Belkin, *More Job Seekers Scramble to Erase Their Criminal Past*, WALL ST. J., Nov. 11, 2009, at A1, available at <http://online.wsj.com/article/SB125789494126242343.html?KEYWORDS=Douglas+Belkin> ("Arrests that have been legally expunged may remain on databases that data-harvesting companies offer to prospective employers; such background companies are under no legal obligation to erase them.").

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If applicants deny the existence of expunged or sealed records, as they are permitted to do in several states, they may appear dishonest if such records are reported in a criminal background check. *See generally* Debbie A. Mukamal & Paul N. Samuels, *Statutory Limitations on Civil Rights of People with Criminal Records*, 30 FORDHAM URB. L.J. 1501, 1509–10 (2003) (noting that 29 of the 40 states that allow expungement/sealing of arrest records permit the subject of the record to deny its existence if asked about it on employment applications or similar forms, and 13 of the 16 states that allow the expungement/sealing of adult conviction records permit the subject of the record to deny its existence under similar circumstances).

<sup>40</sup> *See* SEARCH, INTERSTATE IDENTIFICATION NAME CHECK EFFICACY: REPORT OF THE NATIONAL TASK FORCE TO THE U.S. ATTORNEY GENERAL 21–22 (1999), [www.search.org/files/pdf/III\\_Name\\_Check.pdf](http://www.search.org/files/pdf/III_Name_Check.pdf) (“A so-called ‘name check’ is based not only on an individual’s name, but also on other personal identifiers such as sex, race, date of birth and Social Security Number. . . . [N]ame checks are known to produce inaccurate results as a consequence of identical or similar names and other identifiers.”); *id.* at 7 (finding that in a sample of 82,601 employment applicants, 4,562 of these individuals were *inaccurately* indicated by a “name check” to have criminal records, which represents approximately 5.5% of the overall sample).

<sup>41</sup> BACKGROUND CHECKS, *supra* note 25, at 2.

<sup>42</sup> A “consumer reporting agency” is defined by FCRA as “any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information *or other information* on consumers for the purposes of furnishing consumer reports to third parties . . . .” 15 U.S.C. § 1681a(f) (emphasis added); *see also* BACKGROUND CHECKS, *supra* note 25, at 43 (stating that the records that CRAs collect include “criminal history information, such as arrest and conviction information”).

<sup>43</sup> A “consumer report” is defined by FCRA as “any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, *character, general reputation, personal characteristics*, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for . . . employment purposes . . . .” 15 U.S.C. § 1681a(d)(1) (emphasis added).

<sup>44</sup> *See* 15 U.S.C. § 1681c(a)(2) (“[N]o consumer reporting agency may make any consumer report containing . . . records of arrest that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.”). *But see id.* § 1681c(b)(3) (stating that the reporting restrictions for arrest records do not apply to individuals who will earn “an annual salary which equals, or which may reasonably be expected to equal \$75,000 or more”).

<sup>45</sup> 15 U.S.C. § 1681c(a)(5) (“[N]o consumer reporting agency may make any consumer report containing . . . [a]ny other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years.”).



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<sup>46</sup> BACKGROUND CHECKS, *supra* note 25, at 2.

<sup>47</sup> See Adam Klein, *Written Testimony of Adam Klein*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, <http://www.eeoc.gov/eeoc/meetings/7-26-11/klein.cfm> (last visited April 23, 2012) (describing how “several data-collection agencies also market and sell a retail-theft contributory database that is used by prospective employers to screen applicants”). See also *Retail Theft Database*, ESTEEM, *Workplace Theft Contributory Database*, LEXISNEXIS, <http://www.lexisnexus.com/risk/solutions/retail-theft-contributory-database.aspx> (last visited April 23, 2012) (stating that their database has “[t]heft and shoplifting cases supplied by more than 75,000 business locations across the country”). These databases may contain inaccurate and/or misleading information about applicants and/or employees. See generally *Goode v. LexisNexis Risk & Info. Analytics Grp., Inc.*, No. 2:11-CV-2950-JD, 2012 WL 975043 (E.D. Pa. Mar. 22, 2012) (unpublished).

<sup>48</sup> BACKGROUND CHECKS, *supra* note 25, at 2.

<sup>49</sup> SOC'Y FOR HUMAN RES. MGMT., BACKGROUND CHECKING: CONDUCTING CRIMINAL BACKGROUND CHECKS, slide 3 (Jan. 22, 2010), [http://www.slideshare.net/shrm/background-check-criminal?from=share\\_email](http://www.slideshare.net/shrm/background-check-criminal?from=share_email) [hereinafter CONDUCTING CRIMINAL BACKGROUND CHECKS] (73% of the responding employers reported that they conducted criminal background checks on all of their job candidates, 19% reported that they conducted criminal background checks on selected job candidates, and a mere 7% reported that they did not conduct criminal background checks on any of their candidates). The survey excluded the “not sure” responses from its analysis, which may account for the 1% gap in the total number of employer responses. *Id.*

<sup>50</sup> CONDUCTING CRIMINAL BACKGROUND CHECKS, *supra* note 49, at slide 7 (39% of the surveyed employers reported that they conducted criminal background checks “[t]o reduce/prevent theft and embezzlement, other criminal activity”); see also Sarah E. Needleman, *Businesses Say Theft by Their Workers is Up*, WALL ST. J., Dec. 11, 2008, at B8, available at <http://online.wsj.com/article/SB122896381748896999.html>.

<sup>51</sup> CONDUCTING CRIMINAL BACKGROUND CHECKS, *supra* note 49, at slide 7 (61% of the surveyed employers reported that they conducted criminal background checks “[to] ensure a safe work environment for employees”); see also ERIKA HARRELL, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, WORKPLACE VIOLENCE, 1993–2009, at 1 (2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/wv09.pdf> (reporting that in 2009, “[n]onfatal violence in the workplace was about 15% of all nonfatal violent crime against persons age 16 or older”). But see *id.* (noting that from “2002 to 2009, the rate of nonfatal workplace violence has declined by 35%, following a 62% decline in the rate from 1993 to 2002”). Studies indicate that most workplace violence is committed by individuals with no relationship to the business or its employees. See *id.* at 6 (reporting that between 2005 and 2009, strangers committed the majority of workplace violence against individuals (53% for males and 41% for females) while violence committed by co-workers accounted for a much smaller percentage (16.3% for males and 14.3% for females)); see also NAT'L INST. FOR OCCUPATIONAL SAFETY & HEALTH, CTR. FOR DISEASE CONTROL & PREVENTION, WORKPLACE VIOLENCE PREVENTION STRATEGIES AND RESEARCH

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NEEDS 4, Table 1 (2006), <http://www.cdc.gov/niosh/docs/2006-144/pdfs/2006-144.pdf> (reporting that approximately 85% of the workplace homicides examined were perpetrated in furtherance of a crime by persons with no relationship to the business or its employees; approximately 7% were perpetrated by employees or former employees, 5% were committed by persons with a personal relationship to an employee, and 3% were perpetrated by persons with a customer-client relationship to the business).

<sup>52</sup> CONDUCTING CRIMINAL BACKGROUND CHECKS, *supra* note 49, at slide 7 (55% percent of the surveyed employers reported that they conducted criminal background checks “[t]o reduce legal liability for negligent hiring”). Employers have a common law duty to exercise reasonable care in hiring to avoid foreseeable risks of harm to employees, customers, and the public. If an employee engages in harmful misconduct on the job, and the employer has not exercised such care in selecting the employee, the employer may be subject to liability for negligent hiring. *See, e.g., Stires v. Carnival Corp.*, 243 F. Supp. 2d 1313, 1318 (M.D. Fla. 2002) (“[N]egligent hiring occurs when . . . the employer knew or should have known of the employee’s unfitness, and the issue of liability primarily focuses upon the adequacy of the employer’s pre-employment investigation into the employee’s background.”).

<sup>53</sup> CONDUCTING CRIMINAL BACKGROUND CHECKS, *supra* note 49, at slide 4 (40% of the surveyed employers reported that they conducted criminal background checks for “[j]ob candidates for positions for which state law requires a background check (e.g., day care teachers, licensed medical practitioners, etc.)”); *see id.* at slide 7 (20% of the employers reported that they conducted criminal background checks “[t]o comply with the applicable State law requiring a background check (e.g., day care teachers, licensed medical practitioners, etc.) for a particular position”). The study did not report the exact percentage of employers that conducted criminal background checks to comply with applicable federal laws or regulations, but it did report that 25% of the employers conducted background checks for “[j]ob candidates for positions involving national defense or homeland security.” *Id.* at slide 4.

<sup>54</sup> *See* 42 U.S.C. § 2000e-2(a).

<sup>55</sup> Disparate treatment based on the race or national origin of job applicants with the same qualifications and criminal records has been documented. For example, a 2003 study demonstrated that White applicants with the same qualifications and criminal records as Black applicants were three times more likely to be invited for interviews than the Black applicants. *See* Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOC. 937, 958, Figure 6 (2003), [www.princeton.edu/~pager/pager\\_ajs.pdf](http://www.princeton.edu/~pager/pager_ajs.pdf). Pager matched pairs of young Black and White men as “testers” for her study. The “testers” in Pager’s study were college students who applied for 350 low-skilled jobs advertised in Milwaukee-area classified advertisements, to test the degree to which a criminal record affects subsequent employment opportunities. The same study showed that White job applicants with a criminal record were called back for interviews more often than equally-qualified Black applicants who *did not have* a criminal record. *Id.* at 958. *See also* Devah Pager et al., *Sequencing Disadvantage: The Effects of Race and Criminal Background for Low Wage Job Seekers*, 623 ANNALS AM. ACAD. POL. & SOC. SCI., 199 (2009), [www.princeton.edu/~pager/annals\\_sequencingdisadvantage.pdf](http://www.princeton.edu/~pager/annals_sequencingdisadvantage.pdf) (finding that among Black and

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White testers with similar backgrounds and criminal records, “the negative effect of a criminal conviction is substantially larger for blacks than whites. . . . the magnitude of the criminal record penalty suffered by black applicants (60 percent) is roughly double the size of the penalty for whites with a record (30 percent)”); *see id.* at 200–201 (finding that personal contact plays an important role in mediating the effects of a criminal stigma in the hiring process, and that Black applicants are less often invited to interview, thereby having fewer opportunities to counteract the stigma by establishing rapport with the hiring official); Devah Pager, *Statement of Devah Pager, Professor of Sociology at Princeton University*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <http://www.eeoc.gov/eeoc/meetings/11-20-08/pager.cfm> (last visited April 23, 2012) (discussing the results of the *Sequencing Disadvantage* study); DEVAH PAGER & BRUCE WESTERN, NYC COMMISSION ON HUMAN RIGHTS, RACE AT WORK, REALITIES OF RACE AND CRIMINAL RECORD IN THE NYC JOB MARKET 6, Figure 2 (2006), [http://www.nyc.gov/html/cchr/pdf/race\\_report\\_web.pdf](http://www.nyc.gov/html/cchr/pdf/race_report_web.pdf) (finding that White testers *with* a felony conviction were called back 13% of the time, Hispanic testers *without* a criminal record were called back 14% of the time, and Black testers *without* a criminal record were called back 10% of the time).

<sup>56</sup> *Race & Color Discrimination*, *supra* note 15, § V.A.1.

<sup>57</sup> A 2006 study demonstrated that employers who are averse to hiring people with criminal records sometimes presumed, in the absence of evidence to the contrary, that African American men applying for jobs have disqualifying criminal records. Harry J. Holzer et al., *Perceived Criminality, Criminal Background Checks, and the Racial Hiring Practices of Employers*, 49 J.L. & ECON. 451 (2006), <http://www.jstor.org/stable/pdfplus/10.1086/501089.pdf>; *see also* HARRY HOLZER ET AL., URBAN INST., EMPLOYER DEMAND FOR EX-OFFENDERS: RECENT EVIDENCE FROM LOS ANGELES 6–7 (2003), [http://www.urban.org/UploadedPDF/410779\\_ExOffenders.pdf](http://www.urban.org/UploadedPDF/410779_ExOffenders.pdf) (describing the results of an employer survey where over 40% of the employers indicated that they would “probably not” or “definitely not” be willing to hire an applicant with a criminal record).

<sup>58</sup> The Commission has not done matched-pair testing to investigate alleged discriminatory employment practices. However, it has issued an Enforcement Guidance that discusses situations where individuals or organizations file charges on the basis of matched-pair testing, among other practices. *See generally* *Enforcement Guidance: Whether “Testers” Can File Charges and Litigate Claims of Employment Discrimination*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N (May 22, 1996), <http://www.eeoc.gov/policy/docs/testers.html>.

<sup>59</sup> 42 U.S.C. § 2000e-2(k)(1)(A)(i). If an employer successfully demonstrates that its policy or practice is job related for the position in question and consistent with business necessity, a Title VII plaintiff may still prevail by demonstrating that there is a less discriminatory “alternative employment practice” that serves the employer’s legitimate goals as effectively as the challenged practice but that the employer refused to adopt. *Id.* § 2000e-2(k)(1)(A)(ii).

<sup>60</sup> 401 U.S. 424, 431–32 (1971).

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<sup>61</sup> *Id.* at 431.

<sup>62</sup> The Civil Rights Act of 1991, Pub. L. No. 102-166, § 105; *see also* *Lewis v. City of Chicago*, 130 S. Ct. 2191 (2010) (reaffirming disparate impact analysis); *Ricci v. DeStefano*, 557 U.S. 557 (2009) (same).

<sup>63</sup> 42 U.S.C. § 2000e-2(k)(1)(A)(i).

<sup>64</sup> The Commission presumes that employers use the information sought and obtained from its applicants and others in making an employment decision. *See* *Gregory v. Litton Sys. Inc.*, 316 F. Supp. 401, 403 (C.D. Cal.1970). If an employer asserts that it did not factor the applicant's or employee's known criminal record into an employment decision, the EEOC will seek evidence supporting this assertion. For example, evidence that the employer has other employees from the same protected group with roughly comparable criminal records may support the conclusion that the employer did not use the applicant's or employee's criminal record to exclude him from employment.

<sup>65</sup> UNIF. CRIME REPORTING PROGRAM, FED. BUREAU OF INVESTIGATION, CRIME IN THE U.S. 2010, at Table 43a (2011), <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/table-43/10tbl43a.xls>.

<sup>66</sup> U.S. CENSUS BUREAU, THE BLACK POPULATION: 2010, at 3 (2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-06.pdf> (reporting that in 2010, “14 percent of all people in the United States identified as Black, either alone, or in combination with one or more races”).

<sup>67</sup> Accurate data on the number of Hispanics arrested and convicted in the United States is limited. *See* NANCY E. WALKER ET AL., NAT'L COUNCIL OF LA RAZA, LOST OPPORTUNITIES: THE REALITY OF LATINOS IN THE U.S. CRIMINAL JUSTICE SYSTEM 17–18 (2004), <http://www.policyarchive.org/handle/10207/bitstreams/20279.pdf> (explaining why “[i]t is very difficult to find any information – let alone accurate information – on the number of Latinos arrested in the United States”). The Department of Justice's Bureau of Justice Statistics' (BJS) *Sourcebook of Criminal Justice Statistics* and the FBI's Crime Information Services Division do not provide data for arrests by ethnicity. *Id.* at 17. However, the U.S. Drug Enforcement Administration (DEA) disaggregates data by Hispanic and non-Hispanic ethnicity. *Id.* at 18. According to DOJ/BJS, from October 1, 2008 to September 30, 2009, 45.5% of drug arrests made by the DEA were of Hispanics or Latinos. MARK MOTIVANS, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, FEDERAL JUSTICE STATISTICS, 2009 – STATISTICAL TABLES, at 6, Table 1.4 (2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/fjs09.pdf>. Accordingly, Hispanics were arrested for drug offenses by the DEA at a rate of three times their numbers in the general population. *See* U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010, at 3 (2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf> (reporting that in 2010, “there were 50.5 million Hispanics in the United States, composing 16 percent of the total population”). However, national statistics indicate that Hispanics have similar or lower drug usage rates compared to Whites. *See, e.g.*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS.

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ADMIN., U.S. DEP'T OF HEALTH & HUMAN SERVS., RESULTS FROM THE 2010 NATIONAL SURVEY ON DRUG USE AND HEALTH: SUMMARY OF NATIONAL FINDINGS 21, Figure 2.10 (2011), <http://oas.samhsa.gov/NSDUH/2k10NSDUH/2k10Results.pdf> (reporting, for example, that the usage rate for Hispanics in 2009 was 7.9% compared to 8.8% for Whites).

<sup>68</sup> See, e.g., HUMAN RIGHTS WATCH, DECADES OF DISPARITY: DRUG ARRESTS AND RACE IN THE UNITED STATES 1 (2009), [http://www.hrw.org/sites/default/files/reports/us0309web\\_1.pdf](http://www.hrw.org/sites/default/files/reports/us0309web_1.pdf) (noting that the "[t]he higher rates of black drug arrests do not reflect higher rates of black drug offending . . . blacks and whites engage in drug offenses - possession and sales - at roughly comparable rates"); SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., U.S. DEP'T OF HEALTH & HUMAN SERVS., RESULTS FROM THE 2010 NATIONAL SURVEY ON DRUG USE AND HEALTH: SUMMARY OF NATIONAL FINDINGS 21 (2011), <http://oas.samhsa.gov/NSDUH/2k10NSDUH/2k10Results.pdf> (reporting that in 2010, the rates of illicit drug use in the United States among persons aged 12 or older were 10.7% for African Americans, 9.1% for Whites, and 8.1% for Hispanics); HARRY LEVINE & DEBORAH SMALL, N.Y. CIVIL LIBERTIES UNION, MARIJUANA ARREST CRUSADE: RACIAL BIAS AND POLICE POLICY IN NEW YORK CITY, 1997–2007, at 13–16 (2008), [www.nyclu.org/files/MARIJUANA-ARREST-CRUSADE\\_Final.pdf](http://www.nyclu.org/files/MARIJUANA-ARREST-CRUSADE_Final.pdf) (citing U.S. Government surveys showing that Whites use marijuana at higher rates than African Americans and Hispanics; however, the marijuana arrest rate of Hispanics is nearly three times the arrest rate of Whites, and the marijuana arrest rate of African Americans is five times the arrest rate of Whites).

<sup>69</sup> PREVALENCE OF IMPRISONMENT, *supra* note 4, at 1, 8. Due to the nature of available data, the Commission is using incarceration data as a proxy for conviction data.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> MARC MAUER & RYAN S. KING, THE SENTENCING PROJECT, UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY 10 (2007), [www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Crd\\_stateratesofincbyraceandethnicity.pdf](http://www.sentencingproject.org/Admin%5CDocuments%5Cpublications%5Crd_stateratesofincbyraceandethnicity.pdf).

<sup>73</sup> *Id.*

<sup>74</sup> PAUL GUERINO ET AL., BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PRISONERS IN 2010, at 27, Table 14 (2011), <http://bjs.ojp.usdoj.gov/content/pub/pdf/p10.pdf> (reporting that as of December 31, 2010, Black men were imprisoned at a rate of 3,074 per 100,000 Black male residents, Hispanic men were imprisoned at a rate of 1,258 per 100,000 Hispanic male residents, and White men were imprisoned at a rate of 459 per 100,000 White male residents); *cf.* ONE IN 31, *supra* note 4, at 5 (“Black adults are four times as likely as whites and nearly 2.5 times as likely as Hispanics to be under correctional control. One in 11 black adults -- 9.2 percent -- was under correctional control [probation, parole, prison, or jail] at year end 2007.”).

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<sup>75</sup> The Uniform Guidelines on Employee Selection Procedures, 29 C.F.R. part 1607, provide that “[employers] should maintain and have available . . . information on [the] adverse impact of [their employment selection procedures].” 29 C.F.R. § 1607.15A. “Where [an employer] has not maintained [such records, the EEOC] may draw an inference of adverse impact of the selection process from the failure of [the employer] to maintain such data . . . .” *Id.* § 1607.4D.

<sup>76</sup> See, e.g., *El v. SEPTA*, 418 F. Supp. 2d 659, 668–69 (E.D. Pa. 2005) (finding that the plaintiff established a prima facie case of disparate impact with evidence from the defendant’s personnel records and national data sources from the U.S. Bureau of Justice Statistics and the Statistical Abstract of the U.S.), *aff’d on other grounds*, 479 F.3d 232 (3d Cir. 2007); *Green v. Mo. Pac. R.R.*, 523 F.2d 1290, 1294–95 (8th Cir. 1975) (concluding that the defendant’s criminal record exclusion policy had a disparate impact based on race by evaluating local population statistics and applicant data), *appeal after remand*, 549 F.2d 1158, 1160 (8th Cir. 1977).

<sup>77</sup> 457 U.S. 440, 442 (1982).

<sup>78</sup> *Id.* at 453–54

<sup>79</sup> 433 U.S. 321, 330 (1977).

<sup>80</sup> See, e.g., *Int’l Bhd. of Teamsters v. United States*, 431 U.S. 324, 365 (1977) (stating that “[a] consistently enforced discriminatory policy can surely deter job applications from those who are aware of it and are unwilling to subject themselves to the humiliation of explicit and certain rejection”).

<sup>81</sup> 42 U.S.C. § 2000e-2(k)(1)(A)(i). See *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971). See also 42 U.S.C. § 2000e(m) (defining the term “demonstrates” to mean “meets the burdens of production and persuasion”).

<sup>82</sup> 422 U.S. 405 (1975).

<sup>83</sup> 433 U.S. 321 (1977).

<sup>84</sup> 137 CONG. REC. 15273 (1991) (statement of Sen. Danforth) (“[T]he terms ‘business necessity’ and ‘job related’ are intended to reflect the concepts enunciated by the Supreme Court in *Griggs v. Duke Power Co.*, and in the other Supreme Court decisions prior to *Wards Cove Packing Co. v. Atonio*.” (citations omitted)). Section 105(b) of the Civil Rights Act of 1991 provides that only the interpretive memorandum read by Senator Danforth in the Congressional Record may be considered legislative history or relied upon in construing or applying the business necessity standard.

<sup>85</sup> 401 U.S. at 431, 436.

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<sup>86</sup> 422 U.S. at 430–31 (endorsing the EEOC’s position that discriminatory tests are impermissible unless shown, by professionally acceptable methods, to predict or correlate with “‘important elements of work behavior which comprise or are relevant to the job or jobs for which candidates are being evaluated’” (quoting 29 C.F.R. § 1607.4(c))).

<sup>87</sup> 433 U.S. at 331–32 (concluding that using height and weight as proxies for strength did not satisfy the business necessity defense because the employer failed to establish a correlation between height and weight and the necessary strength, and also did not specify the amount of strength necessary to perform the job safely and efficiently).

<sup>88</sup> *Id.* at 331 n.14.

<sup>89</sup> 523 F.2d 1290, 1293 (8th Cir. 1975). “In response to a question on an application form, Green [a 29-year-old African American man] disclosed that he had been convicted in December 1967 for refusing military induction. He stated that he had served 21 months in prison until paroled on July 24, 1970.” *Id.* at 1292–93.

<sup>90</sup> *Green v. Mo. Pac. R.R.*, 549 F.2d 1158, 1160 (8th Cir. 1977) (upholding the district court’s injunction prohibiting the employer from using an applicant’s conviction record as an absolute bar to employment but allowing it to consider a prior criminal record as a factor in making individual hiring decisions, as long as the defendant took these three factors into account).

<sup>91</sup> *Id.* (referring to completion of the sentence rather than completion of parole).

<sup>92</sup> *Id.*

<sup>93</sup> 479 F.3d 232 (3d Cir. 2007).

<sup>94</sup> *Id.* at 235.

<sup>95</sup> *Id.* at 235, 236.

<sup>96</sup> *Id.* at 235.

<sup>97</sup> *Id.* at 244.

<sup>98</sup> *Id.* at 244–45.

<sup>99</sup> *Id.* at 247. *Cf.* Shawn Bushway et al., *The Predictive Value of Criminal Background Checks: Do Age and Criminal History Affect Time to Redemption?*, 49 *CRIMINOLOGY* 27, 52 (2011) [hereinafter *The Predictive Value of Criminal Background Checks*] (“Given the results of the current as well as previous [recidivism] studies, the 40-year period put forward in *El v. SEPTA* (2007) . . . seems too old of a score to be still in need of settlement.”).



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<sup>100</sup> *El*, 479 F.3d at 248.

<sup>101</sup> Some states have enacted laws to limit employer inquiries concerning all or some arrest records. *See* BACKGROUND CHECKS, *supra* note 25, at 48–49. At least 13 states have statutes explicitly prohibiting arrest record inquiries and/or dissemination subject to certain exceptions. *See, e.g.*, Alaska (ALASKA STAT. § 12.62.160(b)(8)); Arkansas (ARK. CODE ANN. § 12-12-1009(c)); California (CAL. LAB. CODE § 432.7(a)); Connecticut (CONN. GEN. STAT. § 46a-80(e)); Illinois (775 ILL. COMP. STAT. § 5/2-103(A)) (dealing with arrest records that have been ordered expunged, sealed, or impounded); Massachusetts (MASS. GEN. LAWS ch. 151B § 4(9)); Michigan (MICH COMP. LAWS § 37.2205a(1) (applying to misdemeanor arrests only)); Nebraska (NEB. REV. STAT. § 29-3523(2)) (ordering no dissemination of arrest records under certain conditions and specified time periods)); New York (N.Y. EXEC. LAW § 296(16)); North Dakota (N.D. CENT. CODE § 12-60-16.6(2)); Pennsylvania (18 PA. CONS. STAT. § 9121(b)(2)); Rhode Island (R.I. GEN. LAWS § 28-5-7(7)), and Wisconsin (WIS. STAT. §§ 111.321, 111.335a).

<sup>102</sup> *See* United States v. Armstrong, 517 U.S. 456, 464 (1996) (discussing federal prosecutors’ broad discretionary authority to determine whether to prosecute cases and whether to bring charges before a grand jury); Bordenkircher v. Hayes, 434 U.S. 357, 364 (1978) (explaining same for state prosecutors); *see also* THOMAS H. COHEN & TRACEY KYCKELHAHN, BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, FELONY DEFENDANTS IN LARGE URBAN COUNTIES, 2006, at 10, Table 11 (2010), <http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc06.pdf> (reporting that in the 75 largest counties in the country, nearly one-third of the felony arrests did not result in a conviction because the charges against the defendants were dismissed).

<sup>103</sup> *Schwartz v. Bd. of Bar Exam’rs*, 353 U.S. 232, 241 (1957) (“The mere fact that a [person] has been arrested has very little, if any, probative value in showing that he has engaged in any misconduct.”); *United States v. Hynes*, 467 F.3d 951, 957 (6th Cir. 2006) (upholding a preliminary jury instruction that stated that a “defendant is presumed to be innocent unless proven guilty. The indictment against the Defendant is only an accusation, nothing more. It’s not proof of guilt or anything else.”); *see* *Gregory v. Litton Sys. Inc.*, 316 F. Supp. 401, 403 (C.D. Cal. 1970) (“[I]nformation concerning a prospective employee’s record of arrests without convictions, is irrelevant to [an applicant’s] suitability or qualification for employment.”), *modified on other grounds*, 472 F.2d 631 (9th Cir. 1972); *Dozier v. Chupka*, 395 F. Supp. 836, 850 n.10 (S.D. Ohio 1975) (stating that the use of arrest records was too crude a predictor of an employee’s predilection for theft where there were no procedural safeguards to prevent reliance on unwarranted arrests); *City of Cairo v. Ill. Fair Empl. Prac. Comm.*, 8 Empl. Prac. Dec. (CCH) ¶ 9682 (Ill. App. Ct. 1974) (concluding that, where applicants sought to become police officers, they could not be absolutely barred from appointment solely because they had been arrested, as distinguished from convicted); *see also* EEOC Dec. 74-83, ¶ 6424 (CCH) (1983) (finding no business justification for an employer’s unconditional termination of all employees with arrest records (all five employees terminated were Black), purportedly to reduce thefts in the workplace; the employer produced no evidence that these particular employees had been involved in any of the thefts, or that all people who are arrested but not convicted are prone towards crime in the future); EEOC Dec. 76-87, ¶ 6665 (CCH) (1983) (holding that an applicant who sought to become a police officer could not be rejected based on one arrest five years earlier



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for riding in a stolen car when he asserted that he did not know that the car was stolen and the charge was dismissed).

<sup>104</sup> See STATE CRIMINAL HISTORY, *supra* note 37, at 2; see also BACKGROUND CHECKS, *supra* note 25, at 17.

<sup>105</sup> See *supra* notes 39–40.

<sup>106</sup> See *Clark v. Arizona*, 548 U.S. 735, 766 (2006) (“The first presumption [in a criminal case] is that a defendant is innocent unless and until the government proves beyond a reasonable doubt each element of the offense charged. . . .”). See also FED. R. CRIM P 11 (criminal procedure rule governing pleas). The Supreme Court has concluded that criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations. See generally *Lafler v. Cooper*, 132 S. Ct. 1376 (2012); *Missouri v. Frye*, 132 S. Ct. 1399 (2012).

<sup>107</sup> See *supra* text accompanying note 39.

<sup>108</sup> See e.g., HAW. REV. STAT. § 378-2.5(b). Under this provision, the employer may withdraw the offer of employment if the prospective employee has a conviction record “that bears a rational relationship to the duties and responsibilities of the position.” *Id.* See also CONN. GEN. STAT. § 46a-80(b) (“[N]o employer . . . shall inquire about a prospective employee’s past convictions until such prospective employee has been deemed otherwise qualified for the position.”); MINN. STAT. § 364.021(a) (“[A] public employer may not inquire or consider the criminal record or criminal history of an applicant for public employment until the applicant has been selected for an interview by the employer.”). State fair employment practices agencies have information about applicable state law.

<sup>109</sup> See generally NAT’L LEAGUE OF CITIES & NAT’L EMP’T LAW PROJECT, CITIES PAVE THE WAY: PROMISING REENTRY POLICIES THAT PROMOTE LOCAL HIRING OF PEOPLE WITH CRIMINAL RECORDS (2010), [www.nelp.org/page/-/SCLP/2010/CitiesPavetheWay.pdf?nocdn=1](http://www.nelp.org/page/-/SCLP/2010/CitiesPavetheWay.pdf?nocdn=1) (identifying local initiatives that address ways to increase employment opportunities for individuals with criminal records, including delaying a background check until the final stages of the hiring process, leveraging development funds, and expanding bid incentive programs to promote local hiring priorities); NAT’L EMP’T LAW PROJECT, CITY AND COUNTY HIRING INITIATIVES (2010), [www.nelp.org/page/-/SCLP/CityandCountyHiringInitiatives.pdf](http://www.nelp.org/page/-/SCLP/CityandCountyHiringInitiatives.pdf) (discussing the various city and county initiatives that have removed questions regarding criminal history from the job application and have waited until after a conditional offer of employment has been made to conduct a background check and inquire about the applicant’s criminal background).

<sup>110</sup> Several federal laws automatically prohibit employing individuals with certain felony convictions or, in some cases, misdemeanor convictions. See, e.g., 5 U.S.C. § 7371(b) (requiring the mandatory removal of any federal law enforcement officer who is convicted of a felony); 46 U.S.C. § 70105(c)(1)(A) (mandating that individuals who have been convicted of espionage, sedition, treason or terrorism be permanently disqualified from receiving a biometric transportation security card and thereby excluded from port work employment); 42 U.S.C.

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§ 13726(b)(1) (disqualifying persons with felony convictions or domestic violence convictions from working for a private prisoner transport company); 25 U.S.C. § 3207(b) (prohibiting individuals with a felony conviction, or any of two or more misdemeanor convictions, from working with Indian children if their convictions involved crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons, or offenses committed against children); 18 U.S.C. § 922(g)(1), (9) (prohibiting an individual convicted of a felony or a misdemeanor for domestic violence from possessing a firearm, thereby excluding such individual from a wide range of jobs that require such possession); 18 U.S.C. § 2381 (prohibiting individuals convicted of treason from “holding any office under the United States”). Other federal laws prohibit employing individuals with certain convictions for a defined time period. *See, e.g.*, 5 U.S.C. § 7313(a) (prohibiting individuals convicted of a felony for inciting a riot or civil disorder from holding any position in the federal government for five years after the date of the conviction); 12 U.S.C. § 1829 (requiring a ten-year ban on employing individuals in banks if they have certain financial-related convictions); 49 U.S.C. § 44936(b)(1)(B) (imposing a ten-year ban on employing an individual as a security screener for an air carrier if that individual has been convicted of specified crimes).

<sup>111</sup> *See* 29 C.F.R. § 1607.5 (describing the general standards for validity studies).

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* § 1607.6B. The following subsections state:

(1) *Where informal or unscored procedures are used.* When an informal or unscored selection procedure which has an adverse impact is utilized, the user should eliminate the adverse impact, or modify the procedure to one which is a formal, scored or quantified measure or combination of measures and then validate the procedure in accord with these guidelines, or otherwise justify continued use of the procedure in accord with Federal law.

(2) *Where formal and scored procedures are used.* When a formal and scored selection procedure is used which has an adverse impact, the validation techniques contemplated by these guidelines usually should be followed if technically feasible. Where the user cannot or need not follow the validation techniques anticipated by these guidelines, the user should either modify the procedure to eliminate adverse impact or otherwise justify continued use of the procedure in accord with Federal law.

*Id.* § 1607.6A, B(1)–(2).

<sup>114</sup> *See, e.g.*, Brent W. Roberts et al., *Predicting the Counterproductive Employee in a Child-to-Adult Prospective Study*, 92 J. APPLIED PSYCHOL. 1427, 1430 (2007), <http://internal.psychology.illinois.edu/~broberts/Roberts,%20Harms,%20Caspi,%20&%20Moffitt,%202007.pdf> (finding that in a study of New Zealand residents from birth to age 26, “[a]dolescent criminal convictions were unrelated to committing counterproductive activities at work [such as tardiness, absenteeism, disciplinary problems, etc.]. In fact, according to the

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[results of the study], people with an adolescent criminal conviction record were less likely to get in a fight with their supervisor or steal things from work.”).

<sup>115</sup> See OHIO REV. CODE ANN. § 2913.02.

<sup>116</sup> 523 F.2d at 1298 (stating that “[w]e cannot conceive of any business necessity that would automatically place every individual convicted of any offense, except a minor traffic offense, in the permanent ranks of the unemployed”).

<sup>117</sup> 479 F.3d at 247.

<sup>118</sup> See, e.g., Keith Soothill & Brian Francis, *When do Ex-Offenders Become Like Non-Offenders?*, 48 HOWARD J. OF CRIM. JUST., 373, 380–81 (2009) (examining conviction data from Britain and Wales, a 2009 study found that the risk of recidivism declined for the groups with prior records and eventually converged within 10 to 15 years with the risk of those of the nonoffending comparison groups); Alfred Blumstein & Kiminori Nakamura, *Redemption in the Presence of Widespread Criminal Background Checks*, 47 CRIMINOLOGY 327 (2009) (concluding that there may be a “point of redemption” (i.e., a point in time where an individual’s risk of re-offending or re-arrest is reasonably comparable to individuals with no prior criminal record) for individuals arrested for certain offenses if they remain crime free for a certain number of years); Megan C. Kurlychek, Robert Brame & Shawn D. Bushway, *Enduring Risk? Old Criminal Records and Predictions of Future Criminal Involvement*, 53 CRIME & DELINQUENCY 64 (2007) (analyzing juvenile police contacts and Racine, Wisconsin police contacts for an aggregate of crimes for 670 males born in 1942 and concluding that, after seven years, the risk of a new offense approximates that of a person without a criminal record); Megan C. Kurlychek et al., *Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?*, 5 CRIMINOLOGY & PUB. POL’Y 483 (2006) (evaluating juvenile police contacts and arrest dates from Philadelphia police records for an aggregate of crimes for individuals born in 1958, a 2006 study concluded that the risk of recidivism decreases over time and that, six or seven years after an arrest, an individual’s risk of re-arrest approximates that of an individual who has never been arrested).

<sup>119</sup> *Griggs*, 401 U.S. at 431.

<sup>120</sup> 523 F.2d at 1298; see also *Field v. Orkin Extermination Co.*, No. Civ. A. 00-5913, 2002 WL 32345739, at \*1 (E.D. Pa. Feb. 21, 2002) (unpublished) (“[A] blanket policy of denying employment to any person having a criminal conviction is a [*per se*] violation of Title VII.”). The only exception would be if such an exclusion were required by federal law or regulation. See, e.g., *supra* note 110.

<sup>121</sup> Cf. *Field*, 2002 WL 32345739, at \*1. In *Field*, an employee of ten years was fired after a new company that acquired her former employer discovered her 6-year-old felony conviction. The new company had a blanket policy of firing anyone with a felony conviction less than 10 years old. The court granted summary judgment for the employee because the employer’s argument that her conviction was related to her job qualifications was “weak at best,” especially

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given her positive employment history with her former employer. *Id.*

<sup>122</sup> Recidivism rates tend to decline as ex-offenders' ages increase. A 2011 study found that an individual's age at conviction is a variable that has a "substantial and significant impact on recidivism." *The Predictive Value of Criminal Background Checks*, *supra* note 99, at 43. For example, the 26-year-olds in the study, with no prior criminal convictions, had a 19.6% chance of reoffending in their first year after their first conviction, compared to the 36-year-olds who had an 8.8% chance of reoffending during the same time period, and the 46-year-olds who had a 5.3% of reoffending. *Id.* at 46. *See also* PATRICK A. LANGAN & DAVID J. LEVIN, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SPECIAL REPORT: RECIDIVISM OF PRISONERS RELEASED IN 1994, at 7 (2002), <http://bjs.ojp.usdoj.gov/content/pub/pdf/rpr94.pdf> (finding that, although 55.7% of ex-offenders aged 14–17 released in 1994 were reconvicted within three years, the percentage declined to 29.7% for ex-offenders aged 45 and older who were released the same year).

Consideration of an applicant's age at the time the offense occurred or at his release from prison would benefit older individuals and, therefore, would not violate the Age Discrimination in Employment Act of 1967, *as amended*, 29 U.S.C. § 621 *et seq.* *See* Age Discrimination in Employment Act, 29 C.F.R. § 1625.2 ("Favoring an older individual over a younger individual because of age is not unlawful discrimination under the ADEA, even if the younger individual is at least 40 years old."); *see also* Gen. Dynamics Land Sys., Inc. v. Cline, 540 U.S. 581, 600 (2004) (concluding that the ADEA does not preclude an employer from favoring an older employee over a younger one within the protected age group).

<sup>123</sup> *See* Laura Moskowitz, *Statement of Laura Moskowitz, Staff Attorney, National Employment Law Project's Second Chance Labor Project*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, <http://www.eeoc.gov/eeoc/meetings/11-20-08/moskowitz.cfm> (last visited April 23, 2012) (stating that one of the factors that is relevant to the assessment of an ex-offender's risk to a workplace and to the business necessity analysis, is the "length and consistency of the person's work history, including whether the person has been recently employed"; also noting that various studies have "shown a strong relationship between employment and decreases in crime and recidivism"). *But see* Stephen J. Tripodi et al., *Is Employment Associated With Reduced Recidivism?: The Complex Relationship Between Employment and Crime*, 54 INT'L J. OF OFFENDER THERAPY AND COMP. CRIMINOLOGY 716, 716 (2010) (finding that "[b]ecoming employed after incarceration, although apparently providing initial motivation to desist from crime, does not seem to be on its own sufficient to prevent recidivism for many parolees").

<sup>124</sup> *See* WENDY ERISMAN & JEANNE BAYER CONTARDO, INST. FOR HIGHER EDUC. POLICY, LEARNING TO REDUCE RECIDIVISM: A 50 STATE ANALYSIS OF POSTSECONDARY CORRECTIONAL EDUCATION 5 (2005), <http://www.ihep.org/assets/files/publications/g-1/LearningReduceRecidivism.pdf> (finding that increasing higher education for prisoners enhances their prospects for employment and serves as a cost-effective approach to reducing recidivism); *see also* John H. Laud & Robert J. Sampson, *Understanding Desistance from Crime*, 28 CRIME & JUST. 1, 17–24 (2001), <http://www.ncjrs.gov/pdffiles1/Digitization/192542-192549NCJRS.pdf> (stating that factors associated with personal rehabilitation and social

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stability, such as stable employment, family and community involvement, and recovery from substance abuse, are correlated with a decreased risk of recidivism).

<sup>125</sup> Some employers have expressed a greater willingness to hire ex-offenders who have had an ongoing relationship with third party intermediary agencies that provide supportive services such as drug testing, referrals for social services, transportation, child care, clothing, and food. See Amy L. Solomon et al., *From Prison to Work: The Employment Dimensions of Prisoner Reentry*, 2004 URBAN INST. 20, [http://www.urban.org/UploadedPDF/411097\\_From\\_Prison\\_to\\_Work.pdf](http://www.urban.org/UploadedPDF/411097_From_Prison_to_Work.pdf). These types of services can help ex-offenders avoid problems that may interfere with their ability to obtain and maintain employment. *Id.*; see generally Victoria Kane, *Transcript of 7-26-11 Meeting*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, <http://www.eeoc.gov/eeoc/meetings/7-26-11/transcript.cfm#kane> (last visited April 23, 2012) (describing why employers should partner with organizations that provide supportive services to ex-offenders).

<sup>126</sup> See generally REENTRY MYTHBUSTER! ON FEDERAL BONDING PROGRAM, *supra* note 16; *Work Opportunity Tax Credit (WOTC)*, EMP'T & TRAINING ADMIN., U.S. DEP'T OF LABOR, <http://www.doleta.gov/business/incentives/opptax/> (last visited April 3, 2012); *Directory of State Bonding Coordinators*, EMP'T & TRAINING ADMIN., U.S. DEP'T OF LABOR, <http://www.doleta.gov/usworkforce/onestop/FBPCContact.cfm> (last visited April 3, 2012); *Federal Bonding Program - Background*, U.S. DEP'T OF LABOR, <http://www.bonds4jobs.com/program-background.html> (last visited April 3, 2012); *Bureau of Prisons: UNICOR's Federal Bonding Program*, [http://www.bop.gov/inmate\\_programs/itb\\_bonding.jsp](http://www.bop.gov/inmate_programs/itb_bonding.jsp) (last visited April 3, 2012).

<sup>127</sup> This example is loosely based on a study conducted by Alfred Blumstein and Kiminori Nakamura measuring the risk of recidivism for individuals who have committed burglary, robbery, or aggravated assault. See Blumstein & Nakamura, *supra* note 118.

<sup>128</sup> 42 U.S.C. § 2000e-2(k)(1)(A)(ii), (C). See also *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 998 (1988).

<sup>129</sup> See Exec. Order No. 12,067, 3 C.F.R. 206 (1978 Comp.).

<sup>130</sup> See 49 U.S.C. §§ 44935(e)(2)(B), 44936(a)(1), (b)(1). The statute mandates a criminal background check.

<sup>131</sup> See 5 U.S.C. § 7371(b) (requiring mandatory removal from employment of law enforcement officers convicted of felonies).

<sup>132</sup> See 42 U.S.C. § 13041(c) (“Any conviction for a sex crime, an offense involving a child victim, or a drug felony may be grounds for denying employment or for dismissal of an employee. . . .”).

<sup>133</sup> 12 U.S.C. § 1829.

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<sup>134</sup> 46 U.S.C. § 70105(c).

<sup>135</sup> Other jobs and programs subject to federally-imposed restrictions based on criminal convictions include the business of insurance (18 U.S.C. § 1033(e)), employee benefits employee (29 U.S.C. § 1111(a)), participation in Medicare and state health care programs (42 U.S.C. § 1320a-7(a)–(b)), defense contractor (10 U.S.C. § 2408(a)), prisoner transportation (42 U.S.C. § 13726b(b)(1)), and court-imposed occupational restrictions (18 U.S.C. §§ 3563(b)(5), 3583(d)). This list is not meant to be exhaustive.

<sup>136</sup> *See, e.g.*, federal statutes governing commercial motor vehicle operator’s licenses (49 U.S.C. § 31310(b)–(h)), locomotive operator licenses (49 U.S.C. § 20135(b)(4)(B)), and certificates, ratings, and authorizations for pilots, flight instructors, and ground instructors (49 U.S.C. §§ 44709(b)(2), 44710(b), 4711(c); 14 C.F.R. § 61.15).

<sup>137</sup> *See, e.g.*, federal statutes governing loan originator licensing/registration (12 U.S.C. § 5104(b)(2)), registration of brokers and dealers (15 U.S.C. § 78o(b)(4)(B)), registration of commodity dealers (7 U.S.C. § 12a(2)(D), (3)(D), (E), (H)), and registration of investment advisers (15 U.S.C. § 80b-3(e)(2)–(3), (f)).

<sup>138</sup> *See, e.g.*, custom broker’s licenses (19 U.S.C. § 1641(d)(1)(B)), export licenses (50 U.S.C. App. § 2410(h)), and arms export (22 U.S.C. § 2778(g)).

<sup>139</sup> *See, e.g.*, grain inspector’s licenses (7 U.S.C. § 85), merchant mariner’s documents, licenses, or certificates of registry (46 U.S.C. § 7503(b)), licenses to import, manufacture, or deal in explosives or permits to use explosives (18 U.S.C. § 843(d)), and farm labor contractor’s certificates of registration (29 U.S.C. § 1813(a)(5)). This list of federally-imposed restrictions on occupational licenses and registrations for individuals with certain criminal convictions is not meant to be exhaustive. For additional information, please consult the relevant federal agency or department.

<sup>140</sup> *See* 12 U.S.C. § 1829(a)(1). The statute imposes a ten-year ban for individuals who have been convicted of certain financial crimes such as corruption involving the receipt of commissions or gifts for procuring loans (18 U.S.C. § 215), embezzlement or theft by an officer/employee of a lending, credit, or insurance institution (18 U.S.C. § 657), false or fraudulent statements by an officer/employee of the federal reserve or a depository institution (18 U.S.C. § 1005), or fraud by wire, radio, or television that affects a financial institution (18 U.S.C. § 1343), among other crimes. *See* 12 U.S.C. § 1829(a)(2)(A)(i)(I), (II). Individuals who have either been convicted of the crimes listed in § 1829(a)(2)(A), or conspiracy to commit those crimes, will not receive an exception to the application of the 10-year ban from the FDIC. 12 U.S.C. § 1829(a)(2)(A).

<sup>141</sup> *See* FED. DEPOSIT INS. CORP., FDIC STATEMENT OF POLICY FOR SECTION 19 OF THE FDI ACT, § C, “PROCEDURES” (amended May 13, 2011), <http://www.fdic.gov/regulations/laws/rules/5000-1300.html> [hereinafter FDIC POLICY]; *see also*



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Statement of Policy, 63 Fed. Reg. 66,177, 66,184 (Dec. 1, 1998); Clarification of Statement of Policy, 76 Fed. Reg. 28,031 (May 13, 2011) (clarifying the FDIC’s Statement of Policy for Section 19 of the FDI Act).

“Approval is automatically granted and an application [for a waiver] will not be required where [an individual who has been convicted of] the covered offense [criminal offenses involving dishonesty, breach of trust, or money laundering] . . . meets all of the [*de minimis*] criteria” set forth in the FDIC’s Statement of Policy. FDIC POLICY, *supra*, § B (5). These criteria include the following: (1) there is only one conviction or program of record for a covered offense; (2) the offense was punishable by imprisonment for a term of one year or less and/or a fine of \$1,000 or less, and the individual did not serve time in jail; (3) the conviction or program was entered at least five years prior to the date an application would otherwise be required; and (4) the offense did not involve an insured depository institution or insured credit union. *Id.* Additionally, an individual’s conviction for writing a “bad” check will be considered a *de minimis* offense, even if it involved an insured depository institution or insured credit union, if: (1) all other requirements of the *de minimis* offense provisions are met; (2) the aggregate total face value of the bad or insufficient funds check(s) cited in the conviction was \$1000 or less; and (3) no insured depository institution or insured credit union was a payee on any of the bad or insufficient funds checks that were the basis of the conviction. *Id.*

<sup>142</sup> See FDIC POLICY, *supra* note 141, § C, “PROCEDURES.”

<sup>143</sup> *Id.* But cf. NAT’L H.I.R.E. NETWORK, PEOPLE WITH CRIMINAL RECORDS WORKING IN FINANCIAL INSTITUTIONS: THE RULES ON FDIC WAIVERS, <http://www.hirenetwork.org/FDIC.html> (“Institutions rarely seek a waiver, except for higher level positions when the candidate is someone the institution wants to hire. Individuals can only seek FDIC approval themselves if they ask the FDIC to waive the usual requirement. Most individuals probably are unaware that they have this right.”); FED. DEPOSIT INSUR. CORP. 2010 ANNUAL REPORT, § VI.A: KEY STATISTICS, FDIC ACTIONS ON FINANCIAL INSTITUTION APPLICATIONS 2008–2010 (2011), <http://www.fdic.gov/about/strategic/report/2010annualreport/chpt6-01.html> (reporting that between 2008 and 2010, the FDIC approved a total of 38 requests for consent to employ individuals with covered offenses in their background; the agency did not deny any requests during this time period).

<sup>144</sup> FDIC POLICY, *supra* note 141, § D, “EVALUATION OF SECTION 19 APPLICATIONS” (listing the factors that are considered in this waiver review process, which include: (1) the nature and circumstances underlying the offense; (2) “[e]vidence of rehabilitation including the person’s reputation since the conviction . . . the person’s age at the time of conviction . . . and the time which has elapsed since the conviction”; (3) the position to be held in the insured institution; (4) the amount of influence/control the individual will be able to exercise over management affairs; (5) management’s ability to control and supervise the individual’s activities; (6) the degree of ownership the individual will have in the insured institution; (7) whether the institution’s fidelity bond coverage applies to the individual; (8) the opinion of the applicable federal and/or state regulators; and (9) any other relevant factors).

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<sup>145</sup> See 49 C.F.R. §§ 1515.7 (describing the procedures for waiver of criminal offenses, among other standards), 1515.5 (explaining how to appeal the Initial Determination of Threat Assessment based on a criminal conviction). In practice, some worker advocacy groups have criticized the TWIC appeal process due to prolonged delays, which leaves many workers jobless; especially workers of color. See generally MAURICE Emsellem et al., NAT'L EMP'T LAW PROJECT, A SCORECARD ON THE POST-9/11 PORT WORKER BACKGROUND CHECKS: MODEL WORKER PROTECTIONS PROVIDE A LIFELINE FOR PEOPLE OF COLOR, WHILE MAJOR TSA DELAYS LEAVE THOUSANDS JOBLESS DURING THE RECESSION (2009), [http://nelp.3cdn.net/2d5508b4cec6e13da6\\_upm6b20e5.pdf](http://nelp.3cdn.net/2d5508b4cec6e13da6_upm6b20e5.pdf).

The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 6201, 124 Stat. 721 (2010) (the Act) includes a process to appeal or dispute the accuracy of information obtained from criminal records. The Act requires participating states to perform background checks on applicants and current employees who have direct access to patients in long-term care facilities, such as nursing homes, to determine if they have been convicted of an offense or have other disqualifying information in their background, such as a finding of patient or resident abuse, that would disqualify them from employment under the Social Security Act or as specified by state law. See 42 U.S.C. § 1320a-7l(a)(3)(A), (a)(4)(B), (6)(A)–(E). The background check involves an individualized assessment of the relevance of a conviction or other disqualifying information. The Act protects applicants and employees in several ways, for example, by: (1) providing a 60-day provisional period of employment for the prospective employee, pending the completion of the criminal records check; (2) providing an independent process to appeal or dispute the accuracy of the information obtained in the criminal records check; and (3) allowing the employee to remain employed (subject to direct on-site supervision) during the appeals process. 42 U.S.C. § 1320a-7l(a)(4)(B)(iii), (iv).

<sup>146</sup> See 46 U.S.C. § 70105(d); see generally TWIC Program, 49 C.F.R. § 1572.103 (listing the disqualifying offenses for maritime and land transportation security credentials, such as convictions and findings of not guilty by reason of insanity for espionage, murder, or unlawful possession of an explosive; also listing temporarily disqualifying offenses, within seven years of conviction or five years of release from incarceration, including dishonesty, fraud, or misrepresentation (expressly excluding welfare fraud and passing bad checks), firearms violations, and distribution, intent to distribute, or importation of controlled substances).

<sup>147</sup> 46 U.S.C. § 70105(c)(1)(A)–(B).

<sup>148</sup> 46 U.S.C. § 70105(c)(1)(B)(iii).

<sup>149</sup> See 46 U.S.C. § 70105(c)(1)(A)(iv) (listing “Federal crime of terrorism” as a permanent disqualifying offense); see also 18 U.S.C. § 2332b(g)(5)(B) (defining “Federal crime of terrorism” to include the use of weapons of mass destruction under § 2332a).

<sup>150</sup> See 49 C.F.R. § 1515.7(a)(i) (explaining that only certain applicants with disqualifying crimes in their backgrounds may apply for a waiver; these applicants do not include individuals



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who have been convicted of a Federal crime of terrorism as defined by 18 U.S.C. § 2332b(g)).

<sup>151</sup> These positions are defined as “national security positions” and include positions that “involve activities of the Government that are concerned with the protection of the nation from foreign aggression or espionage, including development of defense plans or policies, intelligence or counterintelligence activities, and related activities concerned with the preservation of the military strength of the United States” or “require regular use of, or access to, classified information.” 5 C.F.R. § 732.102(a)(1)–(2). The requirements for “national security positions” apply to competitive service positions, Senior Executive Service positions filled by career appointment within the Executive Branch, and excepted service positions within the Executive Branch. *Id.* § 732.102(b). The head of each Federal agency can designate any position within that department or agency as a “sensitive position” if the position “could bring about, by virtue of the nature of the position, a material adverse effect on the national security.” *Id.* § 732.201(a). Designation of a position as a “sensitive position” will fall under one of three sensitivity levels: Special-Sensitive, Critical-Sensitive, or Noncritical-Sensitive. *Id.*

<sup>152</sup> See Exec. Order No. 12,968, § 3.1(b), 3 C.F.R. 391 (1995 Comp.):

[E]ligibility for access to classified information shall be granted only to employees who are United States citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information. A determination of eligibility for access to such information is a discretionary security decision based on judgments by appropriately trained adjudicative personnel. Eligibility shall be granted only where facts and circumstances indicate access to classified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

<sup>153</sup> 42 U.S.C. § 2000e-2(g); see, e.g., *Bennett v. Chertoff*, 425 F.3d 999, 1001 (D.C. Cir. 2005) (“[E]mployment actions based on denial of a security clearance are not subject to judicial review, including under Title VII.”); *Ryan v. Reno*, 168 F.3d 520, 524 (D.C. Cir. 1999) (“[A]n adverse employment action based on denial or revocation of a security clearance is not actionable under Title VII.”).

<sup>154</sup> See *Policy Guidance on the use of the national security exception contained in § 703(g) of Title VII of the Civil Rights Act of 1964, as amended*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, § II, *Legislative History* (May 1, 1989), [http://www.eeoc.gov/policy/docs/national\\_security\\_exemption.html](http://www.eeoc.gov/policy/docs/national_security_exemption.html) (“[N]ational security requirements must be applied equally without regard to race, sex, color, religion or national origin.”); see also *Jones v. Ashcroft*, 321 F. Supp. 2d 1, 8 (D.D.C. 2004) (indicating that the

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national security exception did not apply because there was no evidence that the government considered national security as a basis for its decision not to hire the plaintiff at any time before the commencement of the plaintiff's lawsuit, where the plaintiff had not been forthright about an arrest).

<sup>155</sup> Federal contractor employees may challenge the denial of a security clearance with the EEOC or the Office of Contract Compliance Programs when the denial is based on race, color, religion, sex, or national origin. *See generally* Exec. Order No. 11,246, 3 C.F.R. 339 (1964–1965 Comp.).

<sup>156</sup> 42 U.S.C. § 2000e-16(a).

<sup>157</sup> Robert H. Shriver, III, *Written Testimony of Robert H. Shriver, III, Senior Policy Counsel for the U.S. Office of Personnel Management*, U.S. EQUAL EMP'T OPPORTUNITY COMM'N, <http://www.eeoc.gov/eeoc/meetings/7-26-11/shriver.cfm> (last visited April 23, 2012) (stating that “with just a few exceptions, criminal convictions do not automatically disqualify an applicant from employment in the competitive civil service”); *see also* REENTRY MYTHBUSTER! ON FEDERAL HIRING POLICIES, *supra* note 16 (“The Federal Government employs people with criminal records with the requisite knowledge, skills and abilities.”). *But see supra* note 110, listing several federal statutes that prohibit individuals with certain convictions from working as federal law enforcement officers or port workers, or with private prisoner transport companies.

<sup>158</sup> OPM has jurisdiction to establish the federal government's suitability policy for competitive service positions, certain excepted service positions, and career appointments in the Senior Executive Service. *See* 5 C.F.R. §§ 731.101(a) (stating that OPM has been directed “to examine ‘suitability’ for competitive Federal employment”), 731.101(b) (defining the covered positions within OPM's jurisdiction); *see also* Shriver, *supra* note 157.

OPM is also responsible for establishing standards that help agencies decide whether to grant their employees and contractor personnel long-term access to federal facilities and information systems. *See* Homeland Security Presidential Directive 12: Policy for a Common Identification Standard for Federal Employees and Contractors, 2 PUB. PAPERS 1765 (Aug. 27, 2004) (“establishing a mandatory, Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors [including contractor employees]”); *see also* Exec. Order No. 13,467, § 2.3(b), 3 C.F.R. 196 (2009 Comp.) (“[T]he Director of [OPM] . . . [is] responsible for developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient, and timely completion of investigations and adjudications relating to determinations of suitability and eligibility for logical and physical access.”); *see generally* Shriver, *supra* note 157.

<sup>159</sup> 5 C.F.R. § 731.101(a).

<sup>160</sup> *See* 5 C.F.R. §§ 731.205(a) (stating that if an agency finds applicants unsuitable based on the factors listed in 5 C.F.R. § 731.202, it may, in its discretion, bar those applicants from federal employment for three years), § 731.202(b) (disqualifying factors from federal civilian

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employment may include: misconduct or negligence in employment; material, intentional false statement, or deception or fraud in examination or appointment; refusal to furnish testimony as required by 5 C.F.R. § 5.4; alcohol abuse without evidence of substantial rehabilitation; illegal use of narcotics, drugs, or other controlled substances; and knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force).

<sup>161</sup> See *id.* § 731.202(c).

<sup>162</sup> *Id.*

<sup>163</sup> See generally Shriver, *supra* note 157. See also REENTRY MYTHBUSTER! ON FEDERAL HIRING POLICIES, *supra* note 16 (“Consistent with Merit System Principles, [federal] agencies [and departments] are required to consider people with criminal records when filling positions if they are the best candidates and can comply with requirements.”).

<sup>164</sup> See generally EEOC Informal Discussion Letter (March 19, 2007), [http://www.eeoc.gov/eeoc/foia/letters/2007/arrest\\_and\\_conviction\\_records.html#N1](http://www.eeoc.gov/eeoc/foia/letters/2007/arrest_and_conviction_records.html#N1) (discussing the EEOC’s concerns with changes to OPM’s suitability regulations at 5 CFR part 731).

<sup>165</sup> See Stephen Saltzburg, *Transcript of 7-26-11 Meeting*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, <http://www.eeoc.gov/eeoc/meetings/7-26-11/transcript.cfm#saltzburg> (last visited April 23, 2012) (discussing the findings from the American Bar Association’s (ABA) Collateral Consequences of Conviction Project, which found that in 17 states that it has examined to date, 84% of the collateral sanctions against ex-offenders relate to employment). For more information about the ABA’s project, visit: Janet Levine, *ABA Criminal Justice Section Collateral Consequences Project*, INST. FOR SURVEY RESEARCH, TEMPLE UNIV., <http://isrweb.isr.temple.edu/projects/accproject/> (last visited April 20, 2012). In April 2011, Attorney General Holder sent a letter to every state Attorney General, with a copy to every Governor, asking them to “evaluate the collateral consequences” of criminal convictions in their state, such as employment-related restrictions on ex-offenders, and “to determine whether those [consequences] that impose burdens on individuals . . . without increasing public safety should be eliminated.” Letter from Eric H. Holder, Jr., Att’y Gen., Dep’t of Justice, to state Attorney Generals and Governors (April 18, 2011), [http://www.nationalreentryresourcecenter.org/documents/0000/1088/Reentry\\_Council\\_AG\\_Letter.pdf](http://www.nationalreentryresourcecenter.org/documents/0000/1088/Reentry_Council_AG_Letter.pdf).

Most states regulate occupations that involve responsibility for vulnerable citizens such as the elderly and children. See STATE CRIMINAL HISTORY, *supra* note 37, at 10 (“Fifty states and the District of Columbia reported that criminal history background checks are legally required” for several occupations such as nurses/elder caregivers, daycare providers, caregivers in residential facilities, school teachers, and nonteaching school employees). For example, Hawaii’s Department of Human Services may deny applicants licensing privileges to operate a childcare facility if: (1) the applicant or any prospective employee has been convicted of a crime other than a minor traffic violation or has been confirmed to have abused or neglected a child or threatened harm; and (2) the department finds that the criminal history or child abuse record of

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the applicant or prospective employee may pose a risk to the health, safety, or well-being of children. *See* HAW. REV. STAT. § 346-154(e)(1)–(2).

<sup>166</sup> 42 U.S.C. § 2000e-7.

<sup>167</sup> *See* Int’l Union v. Johnson Controls, Inc., 499 U.S. 187, 210 (1991) (noting that “[i]f state tort law furthers discrimination in the workplace and prevents employers from hiring women who are capable of manufacturing the product as efficiently as men, then it will impede the accomplishment of Congress’ goals in enacting Title VII”); *Gulino v. N.Y. State Educ. Dep’t*, 460 F.3d 361, 380 (2d Cir. 2006) (affirming the district court’s conclusion that “the mandates of state law are no defense to Title VII liability”).

## **Appendix B**

### **Task Force Work Group Recommendations**

What follows are the recommendations of the work groups focusing on specific areas of the Task Force's work. These work group recommendations were considered and debated by the Task Force as a whole. The final recommendations of the Task Force as a whole, which differ in some respect from work group recommendations, are set forth on page 49.

#### **1. IERTF State Hiring Work Group Recommendations**

After thorough review of the state's employment application, guidelines, and policies regarding criminal backgrounds, we recommend the following actions be taken.

1. CMS Bureau of Personnel shall modify the Application for State Employment in positions under the Personnel Code, also known as the "CMS 100", to remove any inquiry into the applicant's criminal history.

Agencies that do not use the "CMS 100" shall remove any inquiry into the applicant's criminal history on employment applications.

2. CMS Bureau of Personnel shall modify the Application for State Employment to include an email contact section on the Application.
3. Each agency, board, and commission shall adhere to a statewide policy that will permit criminal background checks to be requested and considered only after the point at which a candidate's other qualifications for a specific position are being considered. Once a criminal background check is received, the respective agency, board or commission shall determine whether there is a nexus between the position to be filled and the candidate's criminal history.
4. Each agency, board, and commission shall establish a documented nexus review process for the evaluation of criminal record information. Each hiring agency, board, and commission shall only exclude a candidate relative to his/her criminal history background check where it is determined that exclusion is job related and consistent with business necessity including but not limited to:
  - Nature and gravity of the offense
  - Time that has elapsed since the conviction
  - Nature of the job sought
5. Each agency, board and commission shall adopt an Authorization for Release form that requests an applicant's permission to obtain information relating to the applicant's

criminal history. Authorization for Release forms shall exclude any reference to criminal records self-disclosure.

6. Each agency, board, and commission may elect to use a criminal records self-disclosure form as a part of its hiring process. Each agency, board, and commission shall adhere to a statewide policy that permits the disclosure form to be requested and considered only after the point at which a candidate's other qualifications for a specific position are being considered. Once the criminal records self disclosure is received, the respective agency, board or commission shall determine whether there is a nexus between the position to be filled and the candidate's criminal history.
7. Each agency, board, and commission shall conduct annual training of all human resources department staff and hiring managers on the new state hiring policy for individuals with criminal records.
8. All applicants on whom a criminal background check has been received shall be provided a copy of that report by the requesting agency.
9. Illinois State Police shall establish a help desk phone line for individuals who seek resource assistance for the purpose of deciphering ISP issued criminal record documents.
10. Task the Re-Entry resource center with the responsibility of maintaining a statutory bars database.
11. The nexus review process must allow applicants to request a review of the determination, and respond by providing relevant information that may impact the agency, board, or commission's determination going forward. Any additional information shall be subject to nexus review. The hiring process may proceed during the pendency of the nexus review.

## **2. IERTF Licensing Work Group Final Recommendations**

The Illinois Legislative Task Force on Inventorying Employment Restrictions was created to review the statutes, administrative rules, policies, and practices that may restrict employment of individuals with a criminal history, and to report those employment restrictions and their impact on employment opportunities to the Governor and the General Assembly. While employers routinely evaluate criminal background history to assess potential risks in making employment and licensure decisions, it is essential that the determinations be tailored and based on job-related criteria consonant with business necessity. Hiring and licensure policies/procedures which unnecessarily restrict employment opportunities not only hinder the re-integration of ex-offenders into the job market, they could adversely impact the larger society: ex-offenders who work are less likely to re-offend and are in a better position to be self-supporting and supportive of their children and families. As a result, licensure and employment restrictions must be

designed and carefully scrutinized to both further public safety and preserve employment opportunities, which goals are not mutually exclusive.

1. Notice of Administrative Review

All state agencies create, implement, and publish their internal administrative review process available to applicants who have received adverse licensure and employment decisions on the basis of criminal history to the extent feasible. The administrative review decisions should be made by committees comprised of no less than three staff members.

2. Illinois Re-Entry Employment Resource Center

A permanent Office should be created within state government, which would serve as a resource for all state agencies for matters pertaining to licensure and employment Re-entry issues and assist applicants with a criminal history. Each state agency would designate liaisons to work with the Office to resolve agency-specific hiring and licensure inquiries. The Office should be comprised of legal and human resources staff who could provide guidance to ex-offenders to request pertinent information from agencies and answer procedural questions.<sup>1</sup>

3. General Public Awareness

The State shall create a website or webpage accessible to the public which clearly identifies all positions requiring licensure, licensure requirements, and any licensure restrictions. Each state agency should also be required to post the same information relative to their individual agencies, including administrative review rights, in their human resources offices and on the agency's and the Department of Central Management Services' websites.

4. Agency "Nexus" Review

Within 90 days after the Task Force Final Report is issued, all State agencies be required to initiate an internal review of all licensure requirements and determine whether existing licensure restrictions are job-related criteria consonant with business necessity. Each agency shall report back to the General Assembly all existing restrictions and corrective measures within 90 days after completing its internal review.

5. Employee Training

Agency staff members who are responsible for hiring and licensure decisions should receive annual training on the legal requirements for considering criminal history in the employment and licensure processes.

6. Fidelity Insurance Bonds

Fidelity insurance bonds which shield employers from losses involving employee dishonesty may be an option for applicants whose criminal background history is comprised of convictions involving any type of theft. At one point, the U.S. Department of Labor funded such fidelity bonds at no cost to the employer or worker but the status of this funding is unclear and should be further investigated.

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<sup>1</sup> An alternative option is for the Illinois Employment Reentry Resource Center ("IERRC") to serve as the Central Office responsible for the receipt, processing, and tracking of requests for hiring and licensure administrative reviews.

### **3. IERTF Human Rights Work Group Final Recommendations**

An individual seeking employment with the State of Illinois must complete the CMS100 application in order to request a qualifying grade for a position. This position is typically a “generic” one that may apply to several different agencies, each with different conditions where a previous conviction may not have an adverse effect. The Human Rights Workgroup of the Inventorying Employment Restrictions Task Force met to examine what, if any, impact conviction related questions on the State employment application have on human rights in Illinois.

We began by reviewing the Illinois Human Rights Act, specifically 775 ILCS 5/2-103, which addresses arrest records. The Committee also examined the EEOC’s guidelines on Consideration of Arrest and Conviction Records in Employment Decisions.

Among the many protections of the Illinois Human Rights Act is the protection against discrimination based on race. As it relates to arrests and convictions, the Illinois Human Rights Act forbids employers from inquiring into or using the fact of an arrest or criminal history record information ordered expunged, sealed or impounded.

Because African Americans and Hispanics are incarcerated at rates disproportionate to their numbers in the general population, we agree with the EEOC in determining that blanket restrictions based on criminal history create a disparate impact on employment.

Currently, agencies consider applicants based on statutes and rules that are sometimes over 40 years old. The Equal Employment Opportunity Commission (EEOC) promulgated guidance on how to consider an individual’s criminal history in a way that does not risk violating Title VII of the Civil Rights Act of 1964. Some clear themes that flow from that guidance are that: 1) Applicants should be given individualized consideration for opportunities; 2) Applicants’ records should also be considered through the lens of “business necessity” -which weighs the applicants’ record, the amount of time that has passed since the offenses took place, and the relatedness of the offenses to their fitness or ability to perform the job’s duties against the need for employers to have a safe work environment for all; and 3) Entities should really reconsider whether lifetime bans to opportunities comport with the business necessity test noted above.

It is our recommendation that the State of Illinois should go further than what is currently in the Illinois Human Rights Act, and adopt the EEOC recommendation that “employers not ask about convictions on job applications and that if and when they make such inquiries, the inquiries be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity.” Therefore, we recommend the removal of question 9(b) from the current CMS100 application.

We also recommend that Illinois ensure all its agencies are in compliance with the EEOC’s guidance to showcase how Illinois values respect the civil rights of its residents. This could be done by modifying the existing employment and licensure application review processes to ensure



that all of the above themes from the EEOC's guidance are taken into account. An example of such a process is attached in Appendix 1. The process ensures that applicant's rehabilitation is taken into account. It also ensures that Illinois specific remedies like Certificates of Good Conduct and Certificates of Relief from Disabilities are properly considered in the review process. The language in this document was derived from material presented by the Sargent Shriver National Center on Poverty Law to the Human Rights Work Group.

## **APPENDIX 1: HELPING ILLINOIS HIRE AND LICENSE THE BEST CANDIDATES FOR THE JOB**

**Purpose.** This document is intended to ensure that public agencies and private employers properly consider persons previously convicted of one or more criminal offenses for employment and licenses.

**Definitions.** For the purposes of this document, the following terms shall have the following meanings:

- A. "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.
- B. "Public employer" means any person or entity which employs one or more persons.
- C. "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his or her fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.
- D. "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession.
- E. "Employment" means any occupation, vocation or employment, or any form of vocational or educational training.

**Applicability.** The provisions of this document shall apply to any application by any person for a license or employment at any public employer, or who is currently employed or in possession of a license, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

**Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.** No application for any license or employment, and no employment or

license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless, after careful consideration, the employer or licensing agency determines that:

- A. there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; and,
- B. the issuance or continuation of the license or the granting or continuation of the employment would involve a substantial risk to property or to the safety or welfare of specific individuals or the general public.

**Factors to be considered concerning a previous criminal conviction.**

A. In making a determination, the public agency or employer shall consider the following factors:

- (1) The public policy of this state to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (2) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (3) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, job, or opportunity in question.
- (4) Any evidence demonstrating the ability of the applicant or employee to perform the responsibilities of the license, job, or opportunity in question.
- (5) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (6) The age of the person at the time of occurrence of the criminal offense or offenses.
- (7) The seriousness of the offense or offenses.
- (8) The circumstances surrounding the offense or offenses.
- (9) Any information produced by the person, or produced on their behalf, in regard to his or her rehabilitation and good conduct.
- (10) The legitimate interest of the public agency or employer in protecting property, and the safety and welfare of specific individuals or the general public.

B. In making a determination, the public agency or employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall

## Appendix C

### **Statutory provisions permitting disqualification of persons convicted of certain misdemeanors**

|                  |   |
|------------------|---|
| 720 ILCS 11-1.50 | Criminal sexual abuse   |
| 720 ILCS 11-6    | Indecent solicitation of a child  |
| 720 ILCS 11-7    | Adultery (720 ILCS 5/11-7) (from Ch. 38, par. 11-7)                                     |
| 720 ILCS 11-9    | Public indecency  |
| 720 ILCS 11-14   | Prostitution  |
| 720 ILCS 11-15   | Solicitation for a prostitute (Repealed)  |
| 720 ILCS 11-17   | Keeping a place of prostitution (Repealed)  |
| 720 ILCS 11-18   | Patronizing a prostitute (Repealed)   |
| 720 ILCS 11-19   | Pimping (Repealed)  |
| 720 ILCS 11-30   | Public indecency  |
| 720 ILCS 11-35   | Adultery  |
| 720 ILCS 12-2    | Aggravated assault  |
| 720 ILCS 12-6    | Intimidation  |
| 720 ILCS 12-15   | Criminal sexual abuse   |
| 720 ILCS 14-4    | Eavesdropping   |
| 720 ILCS 16-1    | Theft   |
| 720 ILCS 21.1-3  | Picketing   |
| 720 ILCS 24-3.1  | Unlawful possession of firearms and firearm ammunition                                  |
| 720 ILCS 24-5    | Defacing identification marks of firearms   |
| 720 ILCS 25-1    | Mob action  |
| 2720 ILCS 8-3    | Keeping a gambling place  |
| 720 ILCS 31-1 -  | Resisting or obstructing a peace officer or correctional institution employee           |
| 720 ILCS 31-4    | Obstructing justice   |
| 720 ILCS 31-6    | Escape; failure to report to a penal institution or to report for periodic imprisonment |
| 720 ILCS 31-7    | Aiding escape   |

|               |   |
|---------------|---|
| 720 ILCS 32-1 | Compounding a crime                     |
| 720 ILCS 32-2 | Perjury                                 |
| 720 ILCS 32-3 | Subornation of perjury                  |
| 720 ILCS 32-4 | Communicating with jurors and witnesses |
| 720 ILCS 32-8 | Tampering with public records           |

Subdivisions (a)(1) and (a)(2)(c) of Section 11-14.3 and subsections 1, 6, and 8 of  
720 ILCS 24-1:

(1) Sells, manufactures, purchases, possesses or carries any bludgeon, black jack, sling-shot, sand-club, sand-bag, metal knuckles, throwing star, or any knife, commonly referred to as switchblade knife, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or a ballistic knife, which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material or compressed gas; or

(6) Possesses any device or attachment of any kind firearm; designed, used or intended for use in silencing the report of any

(8) Carries or possesses any firearm, stun gun or taser or other deadly weapon in any place which is licensed to sell liquor/intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering where an admission is charged, excluding a place where a showing, demonstration or lecture involving the exhibition of unloaded firearms is conducted.

## **Appendix D**

**List of occupational licenses restricted based on a criminal record**

## Appendix D

\*Mandatory restriction due to *any* conviction without time limit

\*\*Mandatory restriction due to *any* felony conviction without time limit

| State Agency   | Occupational License, Certification, and Permit Type               |
|--|--|
| Department of Children and Family Services           | Direct child welfare service employee license                      |
|  | Child Protective Investigator                                      |
|  | Child care facility driver   |
|  | Foster home license  |
|  | Day care license   |
| Department of Corrections                            | License for paroled sex offender transitional housing              |
| Department of Financial and Professional Regulations | Acupuncture Practice   |
|  | Advanced Practice Nurses   |
|  | Architecture Practice  |
|  | Athlete Agents   |
|  | Athletic Trainers Practice   |
|  | Auction License  |
|  | Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology |
|  | Cemetery Oversight   |
|  | Certified Shorthand Reporters                                      |
|  | Clinical Psychologist  |
|  | Clinical Social Work Practice                                      |
|  | Collection Agency  |
|  | Community Association Manager License                              |
|  | *Control Substance License   |
|  | Dental Practice  |
|  | Detection of Deception Examiners                                   |
|  | Dietetic and Nutrition Services Practice                           |
|  | Electrologist License  |
|  | Environmental Health Practitioner                                  |
|  | Funeral Directors and Embalmers                                    |
|  | Genetic Counselor  |
|  | Home Inspector License   |
|  | Home Medical Equipment and Services Provider                       |
|  | Humane Euthanasia in Animal Shelters                               |
|  | Interior Design  |
|  | Interpreter for Deaf License                                       |
|  | Landscape Architecture   |
|  | Marriage and Family Therapy Practice                               |
|  | Medical Practice   |

## Appendix D

\*Mandatory restriction due to *any* conviction without time limit

\*\*Mandatory restriction due to *any* felony conviction without time limit

|                                    |   |
|------------------------------------|---|
|                                    | Mortgage Loan Originator  |
|                                    | Naprapatic Practice   |
|                                    | Nurse Practice  |
|                                    | Occupational Therapy Practice   |
|                                    | Optometric Practice   |
|                                    | Orthotics, Prosthetics, and Pedorthics Practice                                       |
|                                    | Perfusionist  |
|                                    | Physical Therapy Practice   |
|                                    | Physician Assistant Practice  |
|                                    | Podiatric Medical Practice  |
|                                    | Professional Counselor and Clinical Professional Counselor                            |
|                                    | Professional Engineering Practice   |
|                                    | Professional Geologist License  |
|                                    | Professional Land Surveyor  |
|                                    | Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith |
|                                    | Public Accounting Practice  |
|                                    | Real Estate Appraiser License   |
|                                    | Real Estate Timeshare   |
|                                    | Registered Surgical Assistant and Registered Surgical Technologist                    |
|                                    | Respiratory Care Practice   |
|                                    | Safety Deposit License  |
|                                    | Speech-Language Pathology Assistant   |
|                                    | Speech-Language Pathology and Audiology   |
|                                    | Structural Engineering Practice   |
|                                    | Veterinary Medicine and Surgery Practice  |
| <b>Department of Labor</b>         | **Nurse Agency Operator   |
|                                    | **Employment Agency Operator  |
|                                    | Employment Counselor  |
| <b>Department of Public Health</b> | Alcoholism and Substance Abuse Treatment and Intervention Licenses                    |
|                                    | *Ambulatory Surgical Treatment license  |
|                                    | Assisted Living and Shared Housing license  |
|                                    | Alzheimer's Disease Management Center license   |
|                                    | Blood Bank license  |
|                                    | Body Artist (Tattoos)   |
|                                    | Certified Nursing Assistant   |
|                                    | Children's Community-Based Health Care Center license                                 |
|                                    | Clinical Laboratory license   |
|                                    | Community Living Facilities License   |

## Appendix D

\*Mandatory restriction due to *any* conviction without time limit

\*\*Mandatory restriction due to *any* felony conviction without time limit

|   |  |
|---|--|
|   | Emergency Medical Technician, Emergency Medical Technician Intermediated, Emergency Medical Technician Paramedic |
|   | *Hearing Instrument Dispenser license  |
|   | Long-term Care for Under Age 22 Facilities license   |
|   | Postsurgical Recovery Care Center license  |
|   | Sheltered Care Facilities license  |
|   | *Skilled Nursing and Intermediate Care Facility license  |
|   | Structural Pest Control license  |
|   | Tanning Facility license   |
|   | Water Well and Pump Installation Contractor's License  |
|   | WIC Retail Vendor  |
| <b>Department of Revenue</b>                        | Cigarette Distributor's License  |
|   | **Cigarette Distributor's Permit   |
|   | Manufacturer (games of chance) License   |
|   | Bingo license  |
| <b>Department of Transportation</b>                 | Testing Station permit   |
| <b>Environmental Protection Agency</b>              | *Industrial Hygienist  |
|   | Landfill Operators Certification   |
| <b>Illinois Commerce Commission</b>                 | *Collateral Recovery Managers  |
|   | Non-relocation (disabled vehicle) towing license   |
|   | *Collateral Recovery Repossession Agency   |
|   | *Collateral Recovery   |
|   | *Household Goods Carriers (Movers)   |
|   | Interstate Motor Carrier   |
|   | *Motor Carriers of Property Fitness Standards  |
|   | Commercial Relocators License  |
|   | Relocator Operators and Dispatchers  |
| <b>Illinois Deaf and Hard of Hearing Commission</b> | *Sign Language Interpreter   |
| <b>Illinois Department of Agriculture</b>           | Feeder Swine Dealer  |
|   | Livestock Dealer   |
| <b>Illinois Emergency Management Agency</b>         | Radon Industry Licensing Act / Regulations for Radon Service Providers   |
|   | Radioactive Material   |
|   | Medical Radiation Technology   |
|   | Industrial Radiography   |
| <b>Illinois Gaming Board</b>                        | *Riverboat Gambling Occupational License   |
|   | *Riverboat Gambling Organizational License   |



## Appendix D

\*Mandatory restriction due to *any* conviction without time limit

\*\*Mandatory restriction due to *any* felony conviction without time limit

|  |  |
|--|--|
|  | ** Riverboat Gambling Owners License         |
|  | ** Riverboat Gambling Mangers License        |
|  | * Riverboat Gambling Suppliers License       |
| <b>Illinois Law Enforcement and Training Board</b> | **Certification of Police Officers           |
| <b>Illinois Liquor Control Commission</b>          | Retail Liquor License                        |
| <b>Illinois Lottery</b>                            | *Lottery Agent License                       |
| <b>Illinois Racing Board</b>                       | Owners License                               |
|  | Jockey                                       |
|  | Trainer                                      |
|  | Inter-Track Employee                         |
|  | Apprentice Jockey                            |
|  | Owner/Assistant Trainer                      |
|  | Jockey Agent                                 |
|  | Racing Official                              |
|  | Business Agent                               |
|  | Totalizer Employee                           |
|  | Authorized Agent                             |
|  | Apprentice Blacksmith                        |
|  | Vendor                                       |
|  | Blacksmith                                   |
|  | Veterinarian                                 |
|  | Off Track Stabling Center                    |
|  | Assistant Trainer                            |
|  | Veterinarian Assistant                       |
|  | Animal Health Tech                           |
|  | Pony Person                                  |
|  | Exercise Person                              |
|  | Foreman                                      |
|  | Vendor/Helper                                |
|  | Hotwalker                                    |
|  | Groom  |
|  | Racetrack Employee                           |
| <b>Illinois State Board of Education</b>           | K-12 Teaching certificate                    |
|  | Education and Cultural Resources certificate |
| <b>Illinois State Police</b>                       | **Firearm Owner's Identification Card        |
| <b>Illinois State Police Merit Board</b>           | *State Police Cadet Certification            |
| <b>Office of the Comptroller</b>                   | Crematory license                            |

## Appendix D

\*Mandatory restriction due to *any* conviction without time limit

\*\*Mandatory restriction due to *any* felony conviction without time limit

|   |  |
|---|--|
| <b>Office of the Secretary of State</b> | Illinois Driver's License  |
|   | Remittance Agent's License   |
|   | Used parts dealers, Scrap processors, Automotive parts recyclers, and Rebuilders |
|   | *Vehicle Dealers, Transporters, Wreckers and Rebuilders                          |
|   | **Notary   |
|   | * Charter Bus Driver Endorsement   |
|   | **Driver Training Instructors  |
|   | Enhanced Skills Driving School Instructors                                       |
|   | **Investment Advisers (Securities)   |
|   | *Safety and Family Financial Responsibility Law                                  |
|   | *Monitoring Device Driving Permit (MDDP) Provisions                              |
|   | Safety Officer License   |
|   | *School Bus Drivers  |
|   | *Driver Training Instructors   |
|   | Loan Broker  |
|   | Business Broker  |
|   | Religious Organization Bus Driver  |
|   | Senior Citizen Transportation Driver   |
|   | For Profit Ridesharing Driver  |
|   | Seasonal Restricted Commercial Driver's License                                  |
| <b>Pollution Control Board</b>          | *Emission Reduction Market Systems Account Officer                               |
|   | Vehicle Scrappage manager  |
| <b>State Fire Marshall</b>              | *Elevator Contractor   |
|   | *Pyrotechnic Distributors  |
|   | Pyrotechnic Operators  |
|   | Arson Investigator   |
|   | Arson Investigator Trainee 1   |
|   | Arson Investigator Trainee 2   |

## **Appendix E**

### **Non-personnel Code Agencies Included in the Inventorying Employment Restrictions Task Force Act**

#### **Legislative Agencies**

Auditor General

#### **Judicial Agencies**

State Appellate Defender

State's Attorneys Appellate Prosecutor

#### **State of Illinois Elected Officials and Elections**

Governor's Office/ Office of Management and Budget

Lieutenant Governor

Attorney General

Secretary of State

State Comptroller

State Treasurer

State Board of Elections

#### **Governor's Agencies**

Illinois State Toll Highway Authority

Illinois Finance Authority

Illinois Housing Development Authority

State of Illinois Comprehensive Insurance Plan

#### **Elementary and Secondary Education**

Illinois State Board of Education

Illinois Teachers' Retirement System

#### **Higher Education**

Illinois Board of Higher Education

Illinois Community College Board

State Universities Retirement System

State Universities Civil Service System

Illinois Student Assistance Commission

## **Appendix F**

### **Memo from Illinois State Police to state agencies concerning options for conducting criminal background checks**

#### **State Agency Illinois and/or National Criminal Background Checks for Non-Criminal Justice Purposes Informational Sheet May 29, 2013**

There are many options for State Agencies to conduct criminal history record information background checks for non-criminal justice employment purposes thru the Illinois State Police and/or Federal Bureau of Investigation.

20 ILCS 2635/5) (from Ch. 38, par. 1605) Sec. 5. Public Availability of Conviction Information. All conviction information mandated by statute to be collected and maintained by the Department of State Police shall be open to public inspection in the State of Illinois. All persons, state agencies and units of local government shall have access to inspect, examine and reproduce such information, in accordance with this Act, and shall have the right to take memoranda and abstracts concerning such information, except to the extent that the provisions of this Act or other Illinois statutes might create specific restrictions on the use or disclosure of such information.

(Source: P.A. 85-922.)

20 ILCS 2630/3(B) (May Require an ORI Assignment by the FBI)

(B) Upon written application and payment of fees authorized by this subsection, State agencies and units of local government, not including school districts, are authorized to submit fingerprints of employees, prospective employees and license applicants to the Department for the purpose of obtaining conviction information maintained by the Department and the Federal Bureau of Investigation about such persons.

Questions to Consider;

- 1) In addition to the above referenced statute, does the State Agency already have some type of enacted legislative mandate to conduct criminal background checks on their employees, temporary employees, volunteers, etc?
- 2) If there is not an enacted legislative mandate requiring such a check do they want to initiate such a change?
- 3) If no enacted statute, does the State Agency want to conduct and name-based or fingerprint-based Illinois criminal history background check?
- 4) In addition to an Illinois check, would the State Agency be interested in a search of the national criminal history record information database(FBI)?

Things a State Agency should know before making their decision;

- The Federal Bureau of Investigation (FBI) does not accept name based inquiries. (There is a fingerprint reject exception to this rule)
- Due to the possibility of false hits, agencies are highly encourage to conduct fingerprint-based rather than name based inquiries, as fingerprints are the only means of positive identification.
- Most State Agencies are only authorized to view “Conviction” information at the state level.
- Criminal Justice Agencies are not authorized to use the LEADS system to assist State Agencies in their background check process for non-criminal justice employment or licensing. Wanted and warrant checks for this purpose is also prohibited. (PHA exception)
- The Uniform Conviction Information Act permits for a name-based or fingerprint-based search of the Illinois criminal history record information database and can be used by any agency not legislatively mandated to conduct a criminal history record information background check and is only interested in Illinois data.

Manual UCIA Forms can be ordered from the ISP web site: [www.isp.state.il.us](http://www.isp.state.il.us)

Electronic Name –based checks can be set up from the ISP web site:

<http://www.isp.state.il.us/crimhistory/convictioninquiries.cfm>

Ms Karen Levy McCanna would be happy to assist with this set up  
(815-740-5175)

- The Fee Applicant is the form that should be used for State Agency employment and should be submitted utilizing the Governing body Agency Assigned Originating Agency Identifier (ORI) with the purpose code of “STE” (State Employment), and must be submitted electronically via Illinois Administrative Rule.
- The Illinois State Police is authorized by law to charge and establish a fee for the cost of processing criminal background checks for non-criminal justice purposes. A separate fingerprinting fee will be charged by the live scan fingerprint vendors. Our fee schedule is posted on the ISP Web site: <http://www.isp.state.il.us/crimhistory/chrifeesched.cfm> :
  - Electronica State Fingerprint Checks \$15.00 FBI Fingerprint Checks: \$16.50 Total \$31.50 Name-Based Checks: Manual \$16.00/Electronic\$10.00
- ISP can supply your agency with a list of licensed fingerprint vendors upon request.
- Sex Offender Registrants are not included as part of an Illinois search, agencies are reminded to conduct a search of the Sex Offender Registration database via the ISP home page in addition to any other employment check thru ISP.
- Most State Agencies are not authorized to view “Juvenile” criminal history record information.
- Volunteers for State Agencies are not authorized under the Fee Applicant process unless Illinois law is enacted and in place authorizing a check of the national criminal history record information database on the agencies “volunteers”.
- Criminal history record information as a rule of thumb cannot be shared.
- A copy of the state and national check should be provided to the applicant if used for licensing or employment purposes.
- An Interagency User Agreement may be required, if there is not one on file already.
- State Agencies are required to share with the applicant their right to challenge their state and national criminal history record information when used for licensing or employment.

ISP would be happy to answer any other questions.

My contact information:

Ms. Tammi Kestel

Executive Operations Officer

Illinois State Police, Bureau of Identification

260 North Chicago Street

Joliet, IL 60432

Email: [Tammi\\_Kestel@isp.state.il.us](mailto:Tammi_Kestel@isp.state.il.us)

Ph: 815-740-5379

# APPENDIX G

## State Agency Fact Sheets

**AUDITOR GENERAL**  
**Government Services/Legislative Agency**  
**FY14 Headcount: 104**

<http://www.auditor.illinois.gov/>

**Summary of Agency Operations**

The Auditor General conducts mandated financial audits and or compliance attestation examinations of all State agencies as defined in the Illinois State Auditing Act; conducts performance audits of agencies and programs as directed by the General Assembly; conducts audits of federal programs administered by State agencies as required by the Federal Single Audit Act of 1984, and conducts special studies and investigations as requested by the General Assembly.

**Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation, or agency policy**

None

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

**System of personnel administration**

**Administrative Rule restrictions applicable to pre-employment screening**

**Title 2, Subtitle C, Chapter V, Part 600 Section 600.618** Application and Appointment

4) Criteria for Selection. B) Pre-employment screening of applicants, including but not limited to performance tests, job knowledge tests, personality inventory or other psychological tests, **background checks** and routine reference verifications, may be performed at the direction of a Director if job related and done in compliance with applicable federal or State statutes and regulations.

**Criminal history record check procedures**

**1) Self-disclosure on application**

Yes, per agency's report to the Task Force

**2) Background check review procedure**

No background checks conducted, per agency's report to the Task Force

**Exemption, waiver, or review mechanisms**

N/A

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

None, per agency's report to the Task Force



## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contract positions subject to criminal history restrictions**

Special assistant auditors [30 ILCS 5/2-11]

### **Contracting restrictions based on criminal history**

Illinois Procurement Code (30 ILCS 500/)

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Criminal history record check procedures**

No background checks conducted on contractors, per agency's report to the Task Force

## **Summary of Employment Restrictions from Agency Report**

The Auditor General's Office employment application asks applicants to disclose prior criminal history other than minor traffic offenses. No potential employee has been rejected for employment with the Auditor General's Office based on his or her response to this question. The Auditor General's Office does not have any specific employment criteria that are based on criminal records and does not conduct criminal background checks on potential employees or contractors.

During the previous two years (2010-2012), 28 persons were hired within the Auditor General's Office. None were disqualified based on criminal disclosure by applicant or criminal background check.

# **CAPITAL DEVELOPMENT BOARD**

**Government Services/Executive Agency**

**FY14 Headcount: 143**

<http://www2.illinois.gov/cdb/Pages/default.aspx>

## **Summary of Agency Operations**

The Capital Development Board (CDB) manages the design and construction of capital projects for the state in a timely, effective and fiscally responsible manner while spreading opportunities among qualified industry partners. The board also provides construction grants for schools, community health centers, early childhood development providers and other entities. CDB oversees the construction of state facilities, such as prisons, universities, mental health hospitals, and state parks. In addition, CDB is responsible for renovation and rehabilitation projects at the state's 8,644 state-owned buildings, which contain more than 96 million square feet of floor space.

## **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

None

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

**System of personnel administration**

**Personnel Code [20 ILCS 415]**

**Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

**Criminal history record check procedures**

**1) Self-disclosure on application**

Yes (CMS 100)

**2) Background check review procedure**

No background checks conducted, per agency's report to the Task Force

**Exemption, waiver, or review mechanisms**

N/A

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

None, per agency's report to the Task Force

## **Occupational Licensing, Certification, Regulation**

N/A

## **Occupational Contracting**

### **Contract positions subject to criminal history restrictions**

Architects, engineers, construction contractors

### **Contracting restrictions based on criminal history, by statute or regulation**

#### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

#### **Administrative Code Title 44, Subtitle B, Chapter XII, Part 950 Prequalification and bidder responsibility**

##### **Section 950.340 Contractor Debarment**

CDB may debar a contractor to exclude it from bidding on CDB projects as provided herein or otherwise provided by statute. CDB will consider debarment in cases so serious and egregious in nature that a loss in excess of five years up to a permanent loss of bidding privileges may be warranted. In addition to the causes listed in Section 950.210, **causes for debarment may include but not be limited to multiple or repetitive criminal convictions** or multiple non-responsibility determinations. Actions to debar a contractor shall not prevent CDB from taking any other action under this Part. Following a period of debarment, when a contractor submits a prequalification application to CDB, the application shall be deemed to be a first-time application rather than one for renewal.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

#### **Administrative Code Title 44, Subtitle B, Chapter XII, Part 980 Prequalification of architects and engineers**

##### **Section 980.430 Architect/Engineer Contractor Debarment**

CDB may debar an A/E to exclude it from submitting on CDB projects. CDB will consider debarment in cases so serious and egregious in nature that a permanent loss of submittal privileges may be warranted. In addition to the causes listed in Section 980.310, **causes for debarment may include but not be limited to multiple or repetitive criminal convictions** or multiple non-responsibility determinations. Following a period of debarment, when an A/E submits a prequalification application to CDB, the application shall be deemed to be a first-time application rather than one for renewal.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Administrative Code Title 44, Subtitle B, Chapter XII, Part 990 Prequalification of construction manager**

h) Capital Development Board shall grant prequalification to those applicants who: 5) do not meet any of the criteria set forth in questions 18 through 23 of the application (violation of safety or environmental laws; **conviction of bribery, etc.**; bankruptcy; past suspension or debarment; student loan default);

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Administrative Code Title 44, Subtitle B, Chapter XII Section 990.430 Contract Manager Debarment**

CDB may debar a CM to exclude it from submitting on CDB projects. CDB will consider debarment in cases so serious and egregious in nature that a permanent loss of submittal privileges may be warranted. In addition to the causes listed in Section 990.310, **causes for debarment may include, but not be limited to, multiple or repetitive criminal convictions** or multiple non-responsibility determinations. Following a period of debarment, when a CM submits a prequalification application to CDB, the application shall be deemed to be a first-time application rather than an application for renewal. A firm that has been debarred as a contractor or A/E (architectural/engineering) firm will automatically be debarred as a CM firm, and vice versa.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Criminal history record check procedures for contracts**

Not specified in agency report to the Task Force

**Summary of Employment Restrictions from Agency Report**

The Capital Development Board does not have employment restrictions based on criminal records in the occupations under its jurisdiction, and does not conduct criminal background checks on applicants seeking employment with the agency.

# **DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

## **Government Services/Executive Agency**

**FY14 Headcount: 1,497**

<http://www2.illinois.gov/cms/Pages/default.aspx>

### **Summary of Agency Operations**

The Department of Central Management Services (CMS) provides cost-effective administration of property management, information technology, telecommunications, human resources, employee benefits, purchasing, legal services, vendor and employee diversity programs. In addition, CMS Bureau of Personnel is responsible for the development and administration of the State's merit employment system in accordance with the provisions outlined in the State Personnel Code, Personnel Rules, Pay Plan, Position Classification Plan, current collective bargaining agreements and other applicable laws. Specific responsibilities include: recruitment and counseling of candidates for state employment; development and administration of testing and selection instruments; establishment and implementation of classification and compensation standards; employee and agency transaction and payroll certification; and administration of the Rutan Supreme Court decision.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

All agency employees, by agency policy (titles enumerated in the agency's report to the Task Force)

#### **Authorization for restriction of applicant**

##### **a) Statutory restrictions, regulatory restrictions applicable to internal hiring**

None

##### **b) Agency policy restrictions applicable to internal hiring**

Per agency's report to the Task Force, CMS considers the nature of the offense, the number of offenses, the candidate's completion of sentence, the time elapsed since conviction, whether the offense is related to the nature and duties of the position sought, and the candidate's education or work experience since conviction to determine eligibility for positions within the agency.

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **3) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

### **4) How criminal history is obtained**

Per agency's report to the Task force, no background check conducted until after the applicant start their employment. At that time, 'CMS submits background checks to State Police every two weeks on new hires'.

### **5) In-house review procedure**

See agency policy above

## **Exemption, waiver, or review mechanisms for applicants**

None, per agency's report to the Task Force

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

350

1 disqualified, but not on criminal history alone

None sought waiver

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

N/A

## **Employment Contracting**

### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

For employment within Central Management Services (CMS), criminal history is only considered once a candidate has been graded and preliminarily selected for a position. To determine eligibility, CMS considers the nature of the offense, the number of offenses, the candidate's completion of sentence, the time elapsed since conviction, whether the offense is related to the nature and duties of the position sought, and the candidate's education or work experience since conviction.

Between 2010 and 2012, 350 individuals underwent background checks after conditional offers of employment. Four were disqualified as a result of the background check, and none were disqualified based on criminal history alone. None sought waiver, and CMS has no formal review or appeal process.

# DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## Human Services/Executive Agency

FY14 Headcount: 2,848

<http://www.state.il.us/dcfs/index.shtml>

### Summary of Agency Operations

The Illinois Department of Children and Family Services (DCFS) plans and coordinates child abuse and neglect prevention programs and services. Agency programs protect children who are reported to be abused or neglected, and work to increase their families' capacity to safely care for them. DCFS staff and private agency partners work to provide for the well-being of the children in our care and seek to secure permanent and stable living situations.

### Internal Hiring

#### **Agency positions subject to restrictions based on criminal history**

Child protection specialist, Child protection advance specialist, Child welfare specialist, Child welfare advance specialist, Public service administrator (direct service only), Police and security force

#### **Statutory Restrictions Applicable to Internal Hiring**

##### **Direct child welfare service employee license [20 ILCS 505/5c]**

By January 1, 2000, the Department, in consultation with private child welfare agencies, shall develop and implement a direct child welfare service employee license. By January 1, 2001 all child protective investigators and supervisors and child welfare specialists and supervisors employed by the Department or its contractors shall be required to demonstrate sufficient knowledge and skills to obtain and maintain the license.

##### **Administrative code, Title 89, Chapter III, Sub chapter f, Part 412, Section 412.40 Licensing Requirement**

Direct child welfare services supervisors and workers employed by the Department of Children and Family Services [or purchase of service agencies] shall be licensed by the Department to practice as a direct child welfare services employee.

**b. Qualifications for License:** 2) has no pending or indicated reports of child abuse or neglect, and **has no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)]** (enumerated below)

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

##### **225 ILCS 10/4.2 Child Care Act of 1969**

(b) In addition to the other provisions of this Section, **no applicant may receive a license** from the Department and no person may be employed by a child care facility licensed by the Department **who has been declared a sexually dangerous person under "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision"**, approved July 6, 1938, as amended, or convicted of committing or attempting



**to commit any of the following offenses stipulated under the Criminal Code of 1961 or the Criminal Code of 2012** (enumerated at the end of the Fact Sheet)

**Restriction Type:** Discretionary

**Restriction Duration:** No time limit specified

#### **225 ILCS 420/5 Child Protective Investigator and Child Welfare Specialist**

In addition to the requirements of Section 4, ...the Department **may take into consideration any felony conviction of the applicant**, but such conviction shall not operate automatically as a complete bar to certification.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

#### **Police and security force [20 ILCS 510/510-200]**

(a) The Department has the power to appoint, subject to the Personnel Code, persons to be members of a police and security force. **Members of the police and security force shall be peace officers and as such have all powers possessed by policemen in cities and sheriffs, including the power to make arrests on view or on warrants of violations of State statutes or city or county ordinances.** These powers may, however, be exercised only in counties of more than 500,000 population when required for the protection of Department properties, interests, and personnel or when specifically requested by appropriate State or local law enforcement officials. Members of the police and security force may not serve and execute civil process.

See Law Enforcement Training and Standards Board Fact Sheet for **mandatory restrictions** on certification of peace officers.

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes [25 ILCS 10/4.2] **Child Care Act of 1969** (a) No applicant may receive a license from the Department and no person may be employed by a licensed child care facility who refuses to authorize an investigation as required by Section 4.1.

**Administrative Code, Title 89, Chapter III, Sub chapter d, Part 385, Section 385.30 Applicability of this Part (d) A condition of employment** 1) As a condition of employment in a licensed child care facility in a position that allows access to children, all persons subject to background checks, as defined in Section 385.20, shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks, as defined in Section 385.20, and to any individual used as replacement or supplemental staff in the direct care and supervision of children.

**20 ILCS 510/510-100 (Criminal history record information)**

Whenever the Department is authorized or required by law to consider some aspect of criminal history record information for the purpose of carrying out its statutory powers and responsibilities, then, upon request and payment of fees in conformance with the requirements of Section 2605-400 of the Department of State Police Law (20 ILCS 2605/2605-400), the Department of State Police is authorized to furnish, pursuant to positive identification, the information contained in State files that is necessary to fulfill the request.

## **(2) Background check review procedure (per agency's report to the Task Force)**

### **Where applicant background is clear:**

1. Receipt of application and authorization for background check
2. Request ISP, SOR, FBI and CANTS from OES
3. Background is clear
4. Ensure all other requirements are met
5. Approve license

### **Where applicant background is not clear:**

1. Receipt of application and authorization for background check
2. Request ISP, SOR, FBI and CANTS from OES
3. Background is not clear
4. Request Criminal History Record Information
5. Review Criminal History for offenses that bar licensure
6. No conviction of offense that is a bar to licensure
7. Ensure all other requirements are met
8. Approved license

### **Alternatively:**

1. Receipt of application and authorization for background check
2. Request ISP, SOR, FBI and CANTS from OES
3. Background is not clear
4. Request Criminal History Record Information
5. Review Criminal History for offenses that bar licensure
6. Contact employee. Determine if employee agrees that rap sheet is correct
  - 6a. Employee does not agree with Criminal History
  - 6b. Employee agrees with Criminal History
7. Verify record with Circuit Clerk
8. Notify employee license will not be approved

## **Exemption, waiver, or review mechanisms**

Per agency's report to the Task Force, Rule 412 does not authorize waiver or appeal. Applicants can seek review through DCFS Chain of Command: 1. Associate Deputy Director; 2. Deputy Director. Review request is an informal process based on the Associate and Deputy's director.

### **Administrative code, Title 89, Chapter III, Sub chapter f, Part 429, Section 429.3 The Department's Affirmative Action Policy**

d) Nothing in this policy shall prohibit the Department from denying employment to persons on the basis of criminal convictions. However, the Department will consider the gravity of the offense, the

circumstances under which it occurred, the background and age of the applicant at the time of the offense and whether the offense is related to the applicant's suitability for employment.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

### **Total number of people who underwent a background check**

756

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Child welfare service employee license for any employees, including contractual purchase of service employees, who has access to children and work in: Child welfare agencies (CWA), Group home (GH), Child care institutions (CCI), Day care home (DCH), Day care centers (DCC), Group day care homes (GDCH), Youth transitional housing (YTH), Youth Emergency Shelter (YES)

### **225 ILCS 10/2.05 Child Care Act of 1969 (Definition)**

"Facility for child care" or "child care facility" means any person, group of persons, agency, association, organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of this Act.

A licensed facility operating as a "child care institution", "maternity center", "child welfare agency", "day care agency" or "day care center" must apply for renewal of its license held, the application to be made to the Department on forms prescribed by it.

### **Statutory/regulatory restrictions applicable to occupational licensing**

#### **Direct child welfare service employee license [20 ILCS 505/5c]**

(a) By January 1, 2000, the Department, in consultation with private child welfare agencies, shall develop and implement a direct child welfare service employee license. By January 1, 2001 all child protective investigators and supervisors and child welfare specialists and supervisors employed by the Department **or its contractors** shall be required to demonstrate sufficient knowledge and skills to obtain and maintain the license. The Direct Child Welfare Service Employee License Board of the Department shall have the authority to revoke or suspend the license of anyone who after a hearing is found to be guilty of misfeasance. The Department shall promulgate such rules as necessary to implement this Section.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

**Direct child welfare service employee licensee, or facility employee who transports children with a motor vehicle**

**Child Care Act of 1969 [225 ILCS 10/5.1]** (b) If a direct child welfare service employee licensee is expected to transport a child or children with a motor vehicle in the course of performing his or her duties, the Department **must verify** that the licensee meets the requirements set forth in Section 5.1 of the Child Care Act of 1969: 4. has not been **convicted of more than 2 offenses against traffic regulations** governing the movement of vehicles **within a twelve month period**; 5. **has not been convicted of reckless driving or driving under the influence or manslaughter or reckless homicide resulting from the operation of a motor vehicle within the past 3 years**; 6. has signed and submitted a written statement certifying that **he has not, through the unlawful operation of a motor vehicle, caused an accident which resulted in the death of any person within the 5 years immediately prior to the date of application.**

**Restriction Type: Mandatory**

**Restriction Duration: See above statute for various time restrictions**

**Administrative Code, Title 89, Chapter III, Sub chapter e, Part 403, Sub part E, Section 403.10**  
**Health and Safety**

m) The group home shall ensure that all persons providing transportation services comply with the driver licensing, Rules of the Road, financial responsibility, vehicle equipment and vehicle inspection provisions of the Illinois Vehicle Code [625 ILCS 5]. Persons with special driving permits are not considered to have a valid driver's license.

1) The group home shall require that all prospective drivers submit a written response to the following questions, which shall be put in the driver's personnel file. No person answering "yes" to any of these questions shall be permitted to transport children.

b) Have you been convicted of driving under the influence, manslaughter or reckless homicide in the past 3 years?

**Restriction Type: Mandatory**

**Restriction Duration: In the past 3 years**

**Child Care Act of 1969 [225 ILCS 10/5.1]**

a) The Department shall ensure that no day care center, group home or child care institution as defined in this Act shall on a regular basis transport a child or children with any motor vehicle unless such vehicle is operated by a person who complies with the following requirements: 2. Currently holds a **valid driver's license, which has not been revoked or suspended for one or more traffic violations during the 3 years immediately prior to the date of application**; 5. **Has not been convicted of reckless driving or driving under the influence or manslaughter or reckless homicide resulting from the operation of a motor vehicle within the past 3 years.**

**Restriction Type: Mandatory**

**Restriction Duration: See above statute for various time restrictions**

**Administrative Code, Title 89, Chapter III, Sub chapter e, Part 401, Sub part E, Section 401.450**  
**Transportation of Children**

c) The child welfare agency shall ask all drivers to answer the following questions in writing and shall include the response to these questions in their personnel files. Persons who answer "yes" to either of the questions in subsection (c)(1), (2) or (3) **shall not** be permitted to transport children. 2). Have you been convicted of driving under the influence, manslaughter, or reckless homicide in the past 3 years?

**Restriction Type:** Mandatory

**Restriction Duration:** Previous 12 month for traffic violations; Previous 3 years for reckless driving, reckless homicide; Previous 5 years for accidental death of person resulting from unlawful operation of motor vehicle

#### **Foster home license applicants**

**20 ILCS 505/5 Direct child welfare services; Department of Children and Family Services**  
(v-1) Prior to final approval for placement of a child, the Department shall conduct a criminal records background check of the prospective foster or adoptive parent, including fingerprint-based checks of national crime information databases. Final approval for placement **shall not be granted if the record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, or if there is a felony conviction for physical assault, battery, or a drug-related offense committed within the past 5 years.**

**Restriction Type:** Mandatory

**Restriction Duration:** Previous 5 years for drug-related offense; no time limit for other offense enumerated

**20 ILCS 505/5 Direct child welfare services; Department of Children and Family Services**  
(v-2) Prior to final approval for placement of a child, the Department shall check its child abuse and neglect registry for information concerning prospective foster and adoptive parents, and any adult living in the home. If any prospective foster or adoptive parent or other adult living in the home has resided in another state in the preceding 5 years, the Department shall request a check of that other state's child abuse and neglect registry.

**Restriction Type:** Mandatory

**Restriction Duration:** In the preceding 5 years

#### **Waiver process for foster parent applicants**

**Administrative Code, Title 89, Chapter III, Sub chapter e, Part 402, Section 402.13 Background Inquiry C.** Persons who have been convicted of an offense shall not be automatically rejected as foster parents unless the offense is one of those listed in Part 402.Appendix A. Otherwise, the Department shall consider the following: 1) the type of crime for which the individual was convicted; 2) the number of crimes for which the individual was convicted; 3) the nature of the offenses; 4) the age of the individual at the time of conviction; 5) the length of time that has elapsed since the last conviction; 6) the relationship of the crime and the capacity to care for children; 7) evidence of rehabilitation; 8) opinions of community members concerning the individual in question.

**Restriction Type:** Discretionary

**Restriction Duration:** No time limit specified

**Child Care of 1969 [225 ILCS 10/4.2]** (d) Notwithstanding subsection (c), the Department may make an exception and issue a new foster family home license or may renew an existing foster family home license of an applicant who was convicted of an offense described in subsection (c), provided all of the following requirements are met: (1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal. (2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check. (3) After the disclosure, the Department either placed a child in the home or the foster family home license was issued. (4) During the background check, the Department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the hire or licensure. (5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under this Act and the Department's administrative rules. (6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment. (e) In evaluating the exception pursuant to subsections (b-2) and (d), the Department must carefully review any relevant documents to determine whether the applicant, despite the disqualifying convictions, poses a substantial risk to State resources or clients. In making such a determination, the following guidelines shall be used: (1) the age of the applicant when the offense was committed; (2) the circumstances surrounding the offense; (3) the length of time since the conviction; (4) the specific duties and responsibilities necessarily related to the license being applied for and the bearing, if any, that the applicant's conviction history may have on his or her fitness to perform these duties and responsibilities; (5) the applicant's employment references; (6) the applicant's character references and any certificates of achievement; (7) an academic transcript showing educational attainment since the disqualifying conviction; (8) a Certificate of Relief from Disabilities or Certificate of Good Conduct; and (9) anything else that speaks to the applicant's character.

### **Applicants for Day Care, Group Day Care Facility License**

#### **Administrative Code, Title 89, Chapter III, Sub chapter e, Part 406, Section 406.9 Characteristics and Qualifications of the Day Care Family**

a) No individual may receive a license from the Department when the applicant, a member of the household age 13 and over, or any individual who has access to the children cared for in a day care home, or any employee of the day care home, has not authorized the background check required by 89 Ill. Adm. Code 385 (Background Checks) and been cleared in accordance with the requirements of Part 385.

c) **Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part (below).**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

**Administrative Code, Title 89, Chapter III, Sub chapter e, Part 406, Section 406. Appendix C Background of Abuse, Neglect, or Criminal history which may prevent licensure or employment in a day care home;**

**Administrative Code, Title 89, Chapter III, Sub chapter e, Part 408, Sub part F, Section 408.40 Background Check (group day care home) B. Criminal Convictions Which Prevent Licensure or Employment.** If any person subject to background checks **has been included in the Statewide Child Sex Offender Database or convicted of committing or attempting to commit one or more of the following serious criminal offenses under the Criminal Code of 1961 [720 ILCS 5] or under any earlier Illinois criminal law or code or an offense in another state, the elements of which are similar and bear a substantial relationship to any of the criminal offenses specified below**, this conviction **will serve as a bar** to receiving a license or permit to operate as a child care facility and from obtaining employment or continuing in employment in a licensed child care facility that allows access to children as part of the duties. **(Offenses enumerated at the end of the Fact Sheet)**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

### **Waiver for child care facilities license (other than foster family homes)**

**Child Care of 1969 [225 ILCS 10/4.2]** (b-2) Notwithstanding subsection (b-1), the Department may make an exception and, for child care facilities other than foster family homes, issue a new child care facility license to or renew the existing child care facility license of an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b-1), provided that all of the following requirements are met: (1) The relevant criminal offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense. (2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility to determine if hiring or licensing the applicant is in accordance with Department administrative rules and procedures; (3) The applicant meets all other requirements and qualifications to be licensed as the pertinent type of child care facility under this Act and the Department's administrative rules.

### **Governing body of the child welfare agency and principal shareholders**

#### **Administrative Code, Title 89, Chapter III, Sub chapter e, Part 401, Sub part C, Section 401, 210 Composition and responsibilities of the governing body**

b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) **shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report**, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **Background check review procedure for all childcare facility license applicants**

#### **225 ILCS 10/4.1 (Criminal Background Investigations)**

The Department shall require that **each child care facility license applicant** as part of the application process, and each employee of a child care facility as a condition of employment, authorize an investigation to determine if such applicant or employee has ever been charged with

a crime and if so, the disposition of those charges; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Director shall request and receive information and assistance from any federal, State or local governmental agency as part of the authorized investigation. Each applicant shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant or child care facility employee upon request of the Department of Children and Family Services when the request is made in the form and manner required by the Department of State Police.

Information concerning convictions of a license applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon request, to such applicant prior to final action by the Department on the application. State conviction information provided by the Department of State Police regarding employees or prospective employees of child care facilities licensed under this Act shall be provided to the operator of such facility, and, upon request, to the employee or prospective employee. Any information concerning criminal charges and the disposition of such charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, and may not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or a child care facility employee. Only information and standards which bear a reasonable and rational relation to the performance of a child care facility shall be used by the Department or any licensee. Any employee of the Department of Children and Family Services, Department of State Police, or a child care facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions of a child care facility applicant, or child care facility employee, shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.

A child care facility may hire, on a probationary basis, any employee authorizing a criminal background investigation under this Section, pending the result of such investigation. Employees shall be notified prior to hiring that such employment may be terminated on the basis of criminal background information obtained by the facility.

### **Employment Contracting**

#### **Employment contracting restrictions based on criminal history**

**20 ILCS 505/5 Direct child welfare services; Department of Children and Family Services** To provide direct child welfare services when not available through other public or private child care or program facilities.



**Title 89, Chapter III, Part 412 Licensure of Direct Child Welfare Services Employees and Supervisors**  
"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract with the Department.

Same licensing processes are used for contractual licensed employees

### **Summary of Employment Restrictions from Agency Report**

The Illinois Department of Children and Family Services (DCFS) plans and coordinates children abuse and neglect prevention programs and services. The following agency positions are subject to restrictions based on criminal history: Child protection specialist, Child protection advance specialist, Child welfare specialist, Child welfare advance specialist, Public service administrator (direct service only), Police and security force.

DCFS licenses child welfare employees (CWEL), including all caseworkers, investigators, foster home licensing workers and their supervisors. DCFS is required to conduct criminal background checks on any employee who has access to children and work in: Child welfare agencies (CWA), Group home (GH), Child care institutions (CCI), Day care home (DCH), Day care centers (DCC), Group day care homes (GDCH), Youth transitional housing (YTH), Youth Emergency Shelter (YES) as well as non-licensed contract staff from DCFS contract liaisons.

DCFS (Rule 412) does not authorize waiver or appeals but applicants can seek a review of their case through DCFS Chain of Command: (1) Associate Deputy Director or (2) Deputy Director. A total of 756 individuals underwent a background check within the last 2 years.

### **Offenses listed under the Child Care Act of 1969 [225 ILCS 10/4.2]**

(b) In addition to the other provisions of this Section, no applicant may receive a license from the Department and no person may be employed by a child care facility licensed by the Department who has been... **convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961 or the Criminal Code of 2012:** murder; solicitation of murder; solicitation of murder for hire; intentional homicide of an unborn child; voluntary manslaughter of an unborn child; involuntary manslaughter; reckless homicide; concealment of a homicidal death; involuntary manslaughter of an unborn child; reckless homicide of an unborn child; drug-induced homicide; a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, 11-13, 11-35, 11-40, and 11-45; kidnapping; aggravated unlawful restraint; aggravated kidnapping; child abduction; aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05; criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated sexual abuse; heinous battery as described in Section 12-4.1 or subdivision (a)(2) of Section 12-3.05; aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05; tampering with food, drugs, or cosmetics; drug induced infliction of great bodily harm as described in Section 12-4.7 or subdivision (g)(1) of Section 12-3.05; hate crime; stalking; aggravated stalking; threatening public officials; home invasion; vehicular invasion; criminal transmission of HIV; criminal abuse or neglect of an elderly or disabled person as described in Section 12-21 or subsection (b) of Section 12-4.4a; child abandonment; endangering the life

or health of a child; ritual mutilation; ritualized abuse of a child; an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

(b-1.5) In addition to any other provision of this Section, **for applicants with access to confidential financial information or who submit documentation to support billing, no applicant whose initial application was considered after the effective date of this amendatory Act of the 97th General Assembly may receive a license from the Department or a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following felony offenses:** financial institution fraud under Section 17-10.6 of the Criminal Code of 1961 or the Criminal Code of 2012; identity theft under Section 16-30 of the Criminal Code of 1961 or the Criminal Code of 2012; financial exploitation of an elderly person or a person with a disability under Section 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012; computer tampering under Section 17-51 of the Criminal Code of 1961 or the Criminal Code of 2012; aggravated computer tampering under Section 17-52 of the Criminal Code of 1961 or the Criminal Code of 2012; computer fraud under Section 17-50 of the Criminal Code of 1961 or the Criminal Code of 2012; deceptive practices under Section 17-1 of the Criminal Code of 1961 or the Criminal Code of 2012; forgery under Section 17-3 of the Criminal Code of 1961 or the Criminal Code of 2012; State benefits fraud under Section 17-6 of the Criminal Code of 1961 or the Criminal Code of 2012; mail fraud and wire fraud under Section 17-24 of the Criminal Code of 1961 or the Criminal Code of 2012; theft under paragraphs (1.1) through (11) of subsection (b) of Section 16-1 of the Criminal Code of 1961 or the Criminal Code of 2012.

**Child Care Act of 1969 [225 ILCS 10/4.2** (b-1) In addition to the other provisions of this Section, beginning January 1, 2004, **no new applicant** and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department **who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses:** (I) BODILY HARM: felony aggravated assault; vehicular endangerment; felony domestic battery; aggravated battery; heinous battery; aggravated battery with a firearm; aggravated battery of an unborn child; aggravated battery of a senior citizen; intimidation; compelling organization membership of persons; abuse and criminal neglect of a long term care facility resident; felony violation of an order of protection. (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY: felony unlawful use of weapons; aggravated discharge of a firearm; reckless discharge of a firearm; unlawful use of metal piercing bullets; unlawful sale or delivery of firearms on the premises of any school; disarming a police officer; obstructing justice; concealing or aiding a fugitive; armed violence; felony contributing to the criminal delinquency of a juvenile. (III) DRUG OFFENSES: possession of more than 30 grams of cannabis; manufacture of more than 10 grams of cannabis; cannabis trafficking; delivery of cannabis on school grounds; unauthorized production of more than 5 cannabis sativa plants; calculated criminal cannabis conspiracy; unauthorized manufacture or delivery of controlled substances; controlled substance trafficking; manufacture, distribution, or advertisement of look-alike substances; calculated criminal drug conspiracy; street gang criminal drug conspiracy; permitting unlawful use of a building; delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property; using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances; delivery of controlled substances; sale or delivery of drug paraphernalia; felony possession, sale, or exchange of instruments adapted for use of a controlled substance,

methamphetamine, or cannabis by subcutaneous injection; felony possession of a controlled substance; any violation of the Methamphetamine Control and Community Protection Act.

(c) In addition to the other provisions of this Section, **no applicant may receive a license from the Department to operate a foster family home**, and no adult person may reside in a foster family home licensed by the Department, **who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Criminal Code of 2012, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, and the Illinois Controlled Substances Act:**

(I) OFFENSES DIRECTED AGAINST THE PERSON: (A) KIDNAPPING AND RELATED OFFENSES: unlawful restraint. (B) BODILY HARM: felony aggravated assault; vehicular endangerment; felony domestic battery; aggravated battery; heinous battery; aggravated battery with a firearm; aggravated battery of an unborn child; aggravated battery of a senior citizen; intimidation; compelling organization membership of persons; abuse and criminal neglect of a long term care facility resident; felony violation of an order of protection;

(II) OFFENSES DIRECTED AGAINST PROPERTY: felony theft; robbery; armed robbery; aggravated robbery; vehicular hijacking; aggravated vehicular hijacking; burglary; possession of burglary tools; residential burglary; criminal fortification of a residence or building; arson; aggravated arson; possession of explosive or explosive incendiary devices.

(III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY: felony unlawful use of weapons; aggravated discharge of a firearm; reckless discharge of a firearm; unlawful use of metal piercing bullets; unlawful sale or delivery of firearms on the premises of any school; disarming a police officer; obstructing justice; concealing or aiding a fugitive; armed violence; felony contributing to the criminal delinquency of a juvenile.

(IV) DRUG OFFENSES: possession of more than 30 grams of cannabis; manufacture of more than 10 grams of cannabis; cannabis trafficking; delivery of cannabis on school grounds; unauthorized production of more than 5 cannabis sativa plants; calculated criminal cannabis conspiracy; unauthorized manufacture or delivery of controlled substances; controlled substance trafficking; manufacture, distribution, or advertisement of look-alike substances; calculated criminal drug conspiracy; Street gang criminal drug conspiracy; permitting unlawful use of a building; delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property; using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances; delivery of controlled substances; sale or delivery of drug paraphernalia; felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection; any violation of the Methamphetamine Control and Community Protection Act.

# DEPARTMENT OF CORRECTIONS

Public Safety/Executive Agency

FY14 Headcount: 11,007

<http://www2.illinois.gov/idoc/Pages/default.aspx>

## **Summary of Agency Operations**

The Department of Corrections (DOC) operates secure correctional facilities, reduces costs by introducing alternatives to incarceration and ensures all incarcerated individuals receive mandated services. DOC promotes public safety in Illinois by implementing strategies that strive for maximum efficiency, programs that reduce recidivism and safe facilities that protect both inmates and workers.

## **Internal Hiring**

### **Agency positions subject to restrictions based on criminal history**

All employees, contractors, and volunteers (excluding outside workers who do not work with offender or offender records such as delivery persons, garbage collectors and who are escorted at all times) who serve the Department are subject to criminal record-based restrictions in accordance with **Administrative Directive 01.02.107 paragraph I.B.**

### **Agency policy applicable to restrictions on internal hiring:**

**Administrative Directive 01.02.107, Background Investigation**, authorizes the Department to conduct background investigations and restrict eligibility to serve the Department. "The Department shall conduct background investigations on persons prior to employment or prior to placement in safety sensitive positions and on person who provide services for the Department..."

The Department requires the possession of weapons and ammunition for positions such as parole agent and security staff. In accordance with 430 ILCS 65 applicants who are prohibited from possessing a firearm or ammunition are not eligible to serve the Department for the above position unless relief is granted in accordance with 430 ILCS 65.

**Firearms Owners Identification Card Act Sec. 4. [430 ILCS 65/4]** (a) Each applicant for a Firearm Owner's Identification Card must: (2) Submit evidence to the Department of State Police that: (ii) He or she has not been **convicted of a felony** under the laws of this or any other jurisdiction; (iii) He or she is not addicted to narcotics; (iv) He or she has not been a patient in a mental institution within the past 5 years and he or **she has not been adjudicated as a mental defective**; (vi) He or she is not an alien who is unlawfully present in the United States under the laws of the United States; (vii) He or she is not **subject to an existing order of protection prohibiting him or her from possessing a firearm**; (viii) He or she has not been **convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed**; (ix) He or she has not been **convicted of domestic battery, aggravated**

**domestic battery, or a substantially similar offense in another jurisdiction committed before, on or after January 1, 2012** (the effective date of Public Act 97-158). If the applicant knowingly and intelligently waives the right to have an offense described in this clause (ix) tried by a jury, and by guilty plea or otherwise, results in a conviction for an offense in which a domestic relationship is not a required element of the offense but in which a determination of the applicability of 18 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the Code of Criminal Procedure of 1963, an entry by the court of a judgment of conviction for that offense shall be grounds for denying the issuance of a Firearm Owner's Identification Card under this Section; (xiii) He or she is not **an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified, except for conviction of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed, within previous 5 years.

### **System of personnel administration**

#### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

### **Background Check Procedures:**

#### **Administrative Directive 01.07.102 (Background Investigations)**

Administrative directive 01.07.102., paragraph II.G. is used by the Department to identify the applicant and requires completed applications CMS 100, DOC 005, or DOC 0031; applicant information sheet either the DOC 0031 or DOC 005; applicant information sheet either the DOCT 0021 or DOC 0267; released and consent form DOC 0035 or DOC 0108; Employment Reference Check, DOC 0037, for employee or contractual applicants; military information for employee and contractual applicants; and fingerprint cards. The Department then uses the information obtained in the above documentation to conduct the above inquiries.

#### **Administrative Directive 03.02.100 (Administrative Review of Personnel or Services Issues)**

Administrative directive 03.02.100, paragraph II G, is used to determine and review an applicant's history disqualifies them for service. The Department of Corrections conducts two types of background investigations:

- a) A "computer criminal history check or name check" is a review of all the applicant's criminal history through the Law Enforcement Agencies Data System (LEADS) and is conducted on all applicants
- b) A "complete background investigations" includes the above inquiry and review of the applicant's driver's license, Firearms Owner's Identification (FOID), employment reference checks, offender, juvenile, and visitor tracking systems within the Department, Military Checks (if applicable). The complete background investigation

is conducted on all state employee applicants, employees, contractual employees, student workers, interns, volunteers who regularly work with offenders and consultants who work with offenders.

Administrative directive 03.03.100, paragraph II.F.5: “an applicant shall not be disqualified on the basis of an arrest record alone...”

Administrative directive 03.03.100, paragraph II. F.6: “in determining whether an applicant;s criminal history demonstrates unsuitability for employment or service, the following shall be considered:

- a. The nature and seriousness of the offense(s) or conduct;
- b. The time that has passes since the offense(s) or conduct;
- c. The frequency and pattern of the offense(s) or conduct; and
- d. The nature of the prospective job

“1. No commitment to any course of action shall be made without the Director’s prior approval when hiring new employees or approving volunteers where factors exist which could give rise to a possible conflict of interest or which demonstrate unsuitability for employment or service, including but not limited to:

- a. The applicant has known relatives or close associates who are currently employed by the Department;
- b. The applicant has been convicted for anything other than a minor traffic violation
- c. The applicant has known relatives or close associates who are presently incarcerated within the Department or who are currently on parole or mandatory supervised release;
- d. The applicant is a former employee of the Department;
- e. The Applicant provided false or misleading information; or
- f. Documentation reveals negative factors which may make the applicant unsuitable for employment or service within the Department, such as discipline or discharge from previous employment.”

### **Exemption, waiver, or review mechanisms**

**Administrative Directive 03.02.100, Administrative Review of Personnel and Service Issues, Paragraph II.F.5.c:** “the applicant must be permitted an opportunity to explain the circumstances of the alleged conduct.” The denial letter states, “You may appeal this decision by submitting your explanation and request for reconsideration in writing to the Background Investigations Unit at the above address, or by fax to 217-522-4366.”

### **Total number of people who underwent a background check**

Not reported to the Task Force

### **Occupational Licensing, Certification, Regulation**

#### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Transitional Housing for sex offenders on parole

### **Statutory/regulatory restrictions applicable to occupational licensing**

#### **Administrative Code, Title 20, Chapter I, Subchapter h, Part 800.100**

a No Transitional Housing applicant may receive a license from the Department, and no person may be employed by a licensed Transitional Housing facility, unless he or she provides written authorization for a background check that may include, but is not limited to: 1) A check of the criminal justice information systems, including, but not limited to, those maintained by the Illinois Department of State Police, the Federal Bureau of Investigation, and the United States Department of Justice, **to determine whether the person has been charged with a crime, and if so, the disposition of the charges;** 3) A declaration under penalty of perjury regarding **any prior criminal convictions** other than a minor traffic violation.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

### **Employment Contracting**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The DOC conducts Law Enforcement Agencies Data System (LEADS) checks on all applicants, and a more comprehensive check on all state employee applicants, employees, contractual employees, student workers, interns, volunteers who regularly work with offenders and consultants who work with offenders.

Applicants are not disqualified based on an arrest record alone, rather the DOC considers the nature and seriousness of the offence, the time passed since the offence, the frequency and pattern of the offense, and the nature of the prospective job to determine whether an applicant is or is not disqualified (Administrative Directive 03.02.100 Par. II.F.5 and 6).

Applicants with prior criminal history are permitted an opportunity to explain the circumstances of the alleged conduct (Administrative Directive 03.02.100 Par. II. F.5

# DEPARTMENT OF EMPLOYMENT SECURITY

## Economic Development and Infrastructure/Executive Agency

FY14 Headcount: 1,285

<http://www.ides.illinois.gov/>

### **Summary of Agency Operations**

The Department of Employment Security (IDES) administers three major programs: Unemployment Insurance (UI), Employment Service (ES) and Labor Market Information (LMI). UI pays temporary benefits to unemployed workers and collects UI taxes from employers. ES connects employers with job seekers, including through Illinois JobLink, the federally funded labor-exchange system. LMI collects, analyzes and disseminates economic and workforce data in cooperation with the U.S. Department of Labor.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

The Department has restrictions on hiring for those law titles/options that require an Attorney Registration and Disciplinary Committee (ARDC) card including Hearings Referee, Hearings Referee-Intermittent, Public Service Administrators (Opt. 8L), or Senior Public Service Administrators (Opt. 8L).

All prospective employees (including temporary and contractual) who are seeking employment with IDES will have a criminal background check completed before they are hired.

#### **Statutory, regulatory restrictions applicable to internal hiring**

##### **705 ILCS 205/1**

No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose from the Supreme Court of this State.

#### **Supreme Court of Illinois, Rules on Admission and Discipline of Attorneys, Article VII, Part A Admission to the Bar, Rule 701 General Qualifications**

(a) Subject to the requirements contained in these rules, persons may be admitted or conditionally admitted to practice law in this State by the Supreme Court if they are at least 21 years of age, **of good moral character** and general fitness to practice law, and have satisfactorily completed examinations on academic qualification and professional responsibility as prescribed by the Board of Admissions to the Bar or have been licensed to practice law in another jurisdiction and have met the requirements of Rule 705.

#### **Agency policy restrictions applicable to internal hiring**

IDES Procedure 2034 (described below) and CMS-284, the Request for Release of Information. No disqualifying offenses except falsification on the CMS 284 and prior Unemployment Insurance fraud enumerated in state agency report.



## **System of personnel administration**

### **Personnel Code [20 ILCS 415]**

#### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

## **Background Check Procedures**

### **(1) Self-disclosure on application**

Yes (CMS 100 and CMS 284)

Human Resource Management performs Illinois criminal history checks on all new and reinstated State employees by request to the Illinois State Police. Employees promoted to certain positions deemed to perform confidential duties may also require a criminal history check.

The following procedures identify the responsible parties and describe the steps in a criminal history check. The results of the criminal history check must be known before the individual is given an effective date of employment. (Summer workers are not included.):

1. Upon selection of an applicant, refers to the criminal history check log to assign the next chronological criminal history check number, (e.g., 04-CH-###). Prepares a fax cover memorandum to the Illinois State Police (ISP), Division of Internal Investigation. **Note:** The information needed to conduct this check is full name (including middle initial), Social Security number, date of birth, race, and sex.
2. Faxes cover memorandum, Employment Application (CMS-100) front page only, and signed Request for Release of Information (CMS 284) to ISP (217) 557-3767. Places documents in the file pending response from the ISP.
3. Illinois State Police conducts a computerized criminal history check; faxes results to Human Resource Management.

### **(2) Background check review procedure**

Human Resource Management receives and reviews report. Records response date and results in the criminal history check log. One of the following scenarios would be present in finalizing the hiring decision:

First, the background check is clear and no further action is required. The Agency can proceed to hire the individual.

Second, the applicant failed to include a conviction, including any guilty pleas where the individual received some sort of alternative sentencing, including court supervision. If this occurs the application would be falsified, meaning the application would be denied, and the Agency would ask CMS to remove the candidate from the eligible list and move on to the next candidate.

Third, the background check revealed a conviction giving concern as to the applicant's viability (i.e. Unemployment Insurance Fraud). In this case, the application would be reviewed at HRM

level and possibly include the Deputy Director of Administration and a decision rendered as to the viability of the applicant.

**Exemption, waiver, or review mechanisms**

None, per state agency report to the Task Force

**Total number of people who underwent a background check**

In 2010, the Illinois Department of Employment Security requested a total of 181 criminal background checks to be conducted. Out of the 181 background checks conducted, 2 had convictions found that were disclosed by the prospective applicants. In 2011, the Illinois Department of Employment Security requested a total of 159 criminal background checks to be conducted. Out of the 159 background checks conducted 1 conviction was found and disclosed by the candidate, and 2 convictions found where the two (2) applicants did not disclose the information at the time of application.

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

The Department has restrictions on hiring for those law titles/options that require an ARDC card including Hearings Referee, Public Service Administrators (Opt. 8L), or Senior Public Service Administrators (Opt. 8L). The Department requires background checks done on all new employees including new hire probationary, exempt, transfers from other state agencies under the Governor's Personnel Code., using the CMS 284 process. There are no disqualifying offenses enumerated by agency policy, other than falsification on the CMS 284.

Out of 181 background checks conducted in 2010, 2 had convictions found that were disclosed by the prospective applicants. In 2011, Out of 159 background checks conducted in 2011, 1 conviction was found and disclosed by the candidate, and 2 convictions found where the two (2) applicants did not disclose the information at the time of application.

# **DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES**

**Human Services/Executive Agency**

**FY14 Headcount: 2,466**

<http://www2.illinois.gov/hfs/Pages/default.aspx>

## **Summary of Agency Operations**

The Department of Healthcare and Family Services (HFS) provides healthcare coverage for children, adults, seniors and people with disabilities who qualify for Medicaid or other medical assistance programs. The department also helps ensure that Illinois' children receive financial support from both parents. HFS is organized into two major programs: Medical Programs and Child Support Services.

## **Internal Hiring**

### **Agency positions subject to restrictions based on criminal history**

None

### **Statutory, regulatory restrictions applicable to internal hiring**

None

### **System of personnel administration**

#### **Personnel Code [20 ILCS 415]**

#### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

### **Background Check Procedures**

#### **(1) Self-disclosure on application**

Yes (CMS 100 and CMS 284)

#### **(2) Background check review procedure**

CMS submits background checks for new hires every two weeks to Illinois State Police after the applicant's start date, per agency's report to the Task Force. Review of criminal history information or disqualifying offenses were not enumerated in the agency's report.

### **Exemption, waiver, or review mechanisms**

Not mentioned in agency report

### **Total number of people who underwent a background check**

Not reported to the Task Force.

## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Illinois Procurement Code (30 ILCS 500/)**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Medical assistance vendors**

#### **Administrative code, Title 89, Chapter I, Sub chapter d, Part 140, Sub part B, section 140.19 Application to participate or for reinstatement subsequent to termination, suspension or barring**

a. A vendor that has been terminated from the Medical Assistance Program may not apply to participate for at least one year after the date of the final administrative decision terminating eligibility, except that, if a vendor has been terminated based on a conviction of a violation of Article VIIIA of the Public Aid Code [305 ILCS 5/Art. VIIIA] or a conviction of a felony based on fraud or a willful misrepresentation related to subsection (a)(1), (2), (3) or (4) of this Section, the vendor shall be barred from participation for five years or for the length of the vendor's sentence for that conviction, whichever is longer.

**Restriction Type:** Mandatory

**Restriction Duration:** 5 years or for the length of the vendor's sentence for that conviction, whichever is longer.

**Subscriber contracts** (medical providers who are enrolled in the Medicaid program or are the provider's agent and who execute a contract with a contractor to participate in the Recipient Eligibility Verification system)

#### **Administrative code, Title 89, Chapter I, Sub chapter d, Part 140, Sub part B, section 140.55 Recipient eligibility verification (REV) system**

d. Subscriber Contracts  
The contractor must agree that all contracts with subscribers provide that: 7. The subscriber certifies that neither it, nor any employees, partners, officers or shareholders of the subscriber, are currently barred, suspended or terminated from participation in the Medicaid or Medicare programs, nor are any of the above currently under sanction for, or serving a sentence for, conviction of any Medicaid or Medicare program offenses.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

## **Summary of Employment Restrictions from Agency Report**

The Department of Health and Family Services (HFS) does not have restrictions for employment and does not request background checks on applicants prior to their start date. However, CMS

submits background checks for new hires every two weeks to the Illinois State Police after the applicant's start date.

## **DEPARTMENT OF HUMAN RIGHTS**

### **Environment and Business Regulations/Executive Agency**

**FY14 Headcount: 147**

<http://www2.illinois.gov/dhr/Pages/default.aspx>

#### **Summary of Agency Operations**

The Department of Human Rights (DHR) is an impartial investigative and regulatory agency charged with administering and enforcing the Illinois Human Rights Act. The department promotes civil rights and works to reduce discrimination in Illinois. DHR encourages voluntary compliance through education of landlords and employers, but actively investigates alleged discriminators. The department investigates approximately 4,000 charges annually.

#### **Internal Hiring**

##### **Agency positions subject to statutory, regulatory, or agency policy restrictions based on criminal history**

None, per agency's report to the Task Force

##### **Statutory restrictions applicable to internal hiring**

None

##### **System of personnel administration**

Subject to the Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

##### **Criminal history record check procedures**

###### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

###### **2) Background check review procedure**

Background checks not conducted, per agency's report to the Task Force

##### **Exemption, waiver, or review mechanisms**

N/A

##### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

N/A

#### **Occupational Licensing, Certification, Regulation**

N/A

#### **Employment Contracting**

##### **Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

The Department of Human Rights does not have agency specific employment restrictions that are based on criminal records for each occupation under the agency's jurisdiction and employment within the agency. There are no provisions in the Illinois Human Rights Act, the DHR Rules and Regulations, or DHR's policies and procedures which restrict employment of persons with a criminal history.

The DHR did not have any applicants undergo criminal background checks.

# DEPARTMENT OF HUMAN SERVICES

## Human Services/Executive Agency

**FY14 Headcount: 12,665**

<http://www.dhs.state.il.us/>

### **Summary of Agency Operations**

The Department of Human Services (DHS) provides access to integrated services designed to support Illinois residents who are striving to achieve economic self-sufficiency and who are working to attain maximum independence. Along with its community partners, DHS provides a range of diverse services, including: temporary food, shelter and financial assistance; child and youth development programs; rehabilitation support; disability services; and substance abuse and mental health treatment options.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

All staff who regularly or temporarily work in a position with direct care of, or with treatment responsibilities for, persons with mental illness and/or a developmental disability and who reside in a mental health or developmental center or attend a DHS operated school or residential facility. Applicants subject to background checking also includes other persons who would regularly or temporarily have access to living quarters, such as janitorial and maintenance staff, and staff who would handle financial, medical and personal records of customers. Specific titles:

Account Clerk I/II, Account Technician I/II/Trainee, Accountant/Advanced, Activity Program Aide I/II, Activity Therapist, Activity Therapist Coordinator, Activity Therapist Supervisor, App/Dry goods Specialist I/II, Baker, Barber, Beautician, Behavior Analyst I/II/Associate, Chaplain I/II, Clinical Lab. Associate, Clinical Lab. Phlebotomist, Clinical Lab Technician I/II, Clinical Lab Technologist I/II/Trainee, Clinical Pharmacist, Clinical Psychologist, Cook I/II, Dental Assistant, Dental Hygienist, Dentist I/II, Dietary Manager I/II, Dietitian, Educational Program Media Specialist, Educator/Aide, Graphic Arts Designer/Technician, Guard I/II/III, Habilitation Program Coord., Hearing and Speech Adv. Specialist, Hearing and Speech Associate, Hearing and Speech Technician I/II, Human Services Sign Lang. Interpreter, Inhalation Therapist, Institutional Helper, Librarian I, Library Associate, Library Technical Assistant, Licensed Practical Nurse I/II, Mental Health Administrator I/II (opt C/D), Mental Health Specialist I/II/III/Trainee, Mental Health Technician I/II/III/IV/V/VI, Mental Health Technician Trainee I, Occupational Therapist, Occupational Therapy Program Coordinator, Office Assistant, Office Associate, Office Coordinator, Optometrist, Pharmacy Lead Technician, Pharmacist Technician, Pharmacy Services Coordinator, Physician, Physical Therapist, Physical Therapy Aide I/II/III, Physical Therapy Prog. Coord., Physician/Specialist A,B,C,D,E, Podiatrist, Psychologist Associate, Psychologist I/II/III, Psychology Intern, Public Administration Intern, Public Serv. Admin (Principal), Radiologic Technologist, Radiologic Tech Chief, Radiologic Tech Program Coord., Recreation Worker I/II, Registered Nurse I/II, Rehabilitation Counselor,



Rehabilitation Counselor Aide I/II, Rehabilitation Counselor Sr., Rehabilitation Counselor Tr., Rehabilitation Mobility Instructor/Trainee, Rehabilitation Services Advisor I, Rehabilitation Wkshop Inst. I/II, Rehabilitation Wkshop Supv. I/II/III, Residential Care Prog. Supv. I, Residential Care Worker/Trainee, Residential Serv. Supv., School Psychologist, Security Officer Chief/Lt./Sgt., Sec. Therapy Aide Trainee, Sec. Therapy Aide I/II/III/IV, Senior Public Service Admin (Opt. 6/8), Social Worker I/II/III/IV/Intern, Staff Pharmacist, Student Worker, Support Serv. Coordinator I/II/Lead, Support Service Worker, Switchboard Operator I/II/III, Vocational Assessment Specialist, Vocational Instructor, System of personnel administration.

Employees with the powers of peace officers

### **Statutory restrictions, regulatory restrictions applicable to internal hiring**

#### **Direct care employees**

**Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/4.2[c] (Facility Staff)** c. The Department shall require that each candidate for employment in a direct care position, as a condition of employment, shall submit to a fingerprint-based criminal background investigation to determine whether the candidate for employment in a direct care position has ever been charged with a crime and, if so, the disposition of those charges. Information on **convictions** of a candidate for employment in a direct care position under this Act shall be provided to the director of the employing unit, and, upon request, to the candidate for employment in a direct care position. **Only information and standards which bear a reasonable and rational relation to the performance of a direct care position shall be used by the Department.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/4.2[c] (Facility Staff)**

No person may be employed in a direct care position who refuses to authorize an investigation as required by this subsection.

**Restriction Type:** Mandatory

**Restriction Duration:** Not applicable

#### **Employees with the powers of peace officers**

**(50 ILCS 705/6.1) Police Training Act Sec. 6.1. Decertification of full-time and part-time police officer Law Enforcement Training and Standards**

(a) The (Law Enforcement Training and Standards) Board must review police officer conduct and records to ensure that no police officer is certified or provided a valid waiver if that police officer has been **convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

## **System of personnel administration**

### **Personnel Code [20 ILCS 415]**

#### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **6) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

**Agency policy: 01.02.03.060 Falsification of Records** The Department of Human Services (DHS) will not tolerate written or oral falsification by any current or prospective employee. Falsification of records or statements includes, but is not limited to, an act of misrepresentation, falsification or omission of any fact.

### **7) Background check review procedure**

#### **Agency policy: 01.02.01.060 Employment Background Reports**

The Bureau of Recruitment and Selection (BRS) or Interviewing Officer shall verify and evaluate all prospective new employees' previous employment history prior to accepting the applicant for employment. Employment references or Employment Background Reports are done only on candidates recommended for hire. A minimum of three previous/current employers will be contacted to obtain the applicant's employment history. Completion of Employment Background Reports is required for all prospective permanent employees, including employees who are being considered for probationary appointments. Besides fingerprint-based check through Illinois State Police, the following databases are checked:

#### **I. National Practitioner Data Bank:**

DHS State-Operated Mental Health and Developmental Centers/Programs are required to review the professional conduct of physicians, dentists, and other health care practitioners to ensure quality of care. This includes requesting information from the National Practitioner Data Bank (NPDB) prior to employment. DHS policies and procedures on this matter should also be considered when physicians, dentists, or other health care practitioners apply for employment. Questions should be directed to the Office of Clinical Services within the appropriate division.

#### **II. Commercial Driver's Licenses (CDLs):**

Federal Motor Carrier Safety Regulations require employers to inquire into the driving records of a prospective employee whose job requirements indicate a requirement for a Commercial Driver's License (CDL). The inquiry must include the driving record during the preceding three years. The inquiry must be directed to the appropriate agency of every state in which the driver held an operator's license or permit. The regulations also require an inquiry into the driver's employment and record of drug testing for the preceding three years.

#### **III. Illinois Department of Public Health Nurse Aide Registry:**

All DHS-operated facilities and schools are required to make a telephone inquiry into the background of new DHS employees, utilizing the Illinois Department of Public Health Nurse Aide Registry (See Attachment A), prior to the hire date. The

Registry maintains records of substantiated findings of abuse or neglect by health care workers in Illinois. All new facility/school-based employees, including contractual employees, are subject to this requirement, not only direct care staff. Individuals who provide general purpose services for the Department are not covered by this requirement (i.e. architects, exterminators, plumbers). In those cases where the (BRS) conducts interviews, they are responsible for the Nurse Aide Registry inquiry. When the hiring process does not include BRS, the facility/school personnel staff is responsible to make the inquiry. Even candidates from outside the work location, with bargaining unit rights to a position, are subject to the inquiry. DHS-operated facilities/schools are responsible for maintaining a log of all inquiries, dates of inquiry, and findings, if any. Specific instructions regarding the inquiry process are attached to this policy

### **Exemption, waiver, or review mechanisms**

#### **Eligibility for waiver**

1) An applicant, employee, or nurse aide may request a waiver of the prohibition against employment. (Section 40 of the Health Care Worker Background Check Act [225 ILCS 46/40])

#### **Waiver decision**

1) The waiver request shall be reviewed by a panel of Department staff. The Department shall return a decision to the applicant, employee, or nurse aide and the provider within 30 calendar days after receipt of the completed waiver request including receipt of a report from the State Police based on the fingerprint-based record check.

2) The provider is not obligated to hire or offer permanent employment to an applicant or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act [225 ILCS 46/40(f)])

3) The Department shall be immune from liability for any waivers granted. (Section 40(e) of the Health Care Worker Background Check Act [225 ILCS 46/40(e)])

#### **Number of job applicants who were subject to a criminal history records check from 7/1/2010 to 6/30/2012:**

1,242 total Criminal Reviews conducted following conditional offer of employment  
100 Hires w/Convictions in Background Check

Note: Via the CMS100 conviction question and policy, the preponderance of the 100 above was known to have convictions prior to the offer of employment and went through administrative review. We don't know how many of that 100 were discharged because they falsified, but it would be just a few.

Pre-Employment Criminal Administrative Reviews per DHS Policy:

681 Total Mental Health Techs Hired

258 Mental Health Techs Reviewed w/Convictions

90 Disqualified, 168 Approved  
80 Hired w/Conviction(s)

222 Total Direct Care DHS Agency Hires  
3 DHS Direct Care Reviewed w/Convictions  
2 Disqualified, 1 Approved  
1 Hired w/Conviction(s)

339 Contractual Direct Care Hires  
Reviewed Data not Known  
19 Hired w/Conviction(s)

It is unknown how many were discharged for falsification

### **Occupational Licensing, Certification, Regulation**

N/A

### **Occupational Contracting**

#### **Contract positions subject to criminal history restrictions**

Contractual direct care workers in mental health or developmental disability facilities under jurisdiction of the Department of Human Services

#### **Contracting restrictions based on criminal history, by statute or regulation**

**Administrative Code: Title 59, Chapter I, Part 119, Sub part B, Section 119.261.**

**Application for waiver of the prohibition against employment [in Developmental Training Programs]** a. A provider shall not knowingly hire or retain any person after January 1, 1998 in a full-time, part-time or **contractual direct care position** if that person has been convicted of committing or attempting to commit one or more of the following offenses unless the applicant or employee obtains a waiver pursuant to subsections (i) through (l) of this Section (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1 through 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 through 9-3.3]);
- 2) Solicitation of murder and solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7]);
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1 and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1 and 10-4]);
- 5) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-6 and 12-7]);
- 6) Sexual assault or abuse (Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15 and 12-16]);

- 7) Indecent solicitation of a child (Section 11-6 of the Criminal Code of 1961 [720 ILCS 5/11-6]);
- 8) Predatory criminal sexual assault of a child (Section 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-14.1]);
- 9) Sexual exploitation of a child (Section 11-9.1 of the Criminal Code of 1961 [720 ILCS 5/11-9.1]);
- 10) Exploitation of a child (Section 11-19.2 of the Criminal Code of 1961 [720 ILCS 5/11-19.2]);
- 11) Child pornography (Section 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-20.1]);
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6]);
- 13) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53], repealed by P.A. 89-234, effective January 1, 1996);
- 14) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 15) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 16) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1 and 19-3]);
- 17) Aggravated robbery (Section 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-5]);
- 18) Criminal trespass (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4]);
- 19) Home invasion (Section 12-11 of Criminal Code of 1961 [720 ILCS 5/12-11]);
- 20) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1]);
- 21) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2]);
- 22) Armed violence (Article 33A of the Criminal Code of 1961 [720 ILCS 5/Art. 33A]);
- 23) Heinous battery (Section 12-4.1 of the Criminal Code of 1961 [720 ILCS 5/12-4.1]);
- 24) Tampering with food, drugs or cosmetics (Section 12-4.5 of the Criminal Code of 1961 [720 ILCS 5/12-4.5]);
- 25) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4]);
- 26) Ritual mutilation and ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33]);
- 27) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3]);
- 28) Vehicular hijacking and aggravated vehicular hijacking (Sections 18-3 and 18-4 of the Criminal Code of 1961 [720 ILCS 5/18-3 and 18-4]);
- 29) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); and
- 30) Delivery of cannabis on school grounds (Section 5.2 of the Cannabis Control Act [720 ILCS 550/5.2]);
- 31) Delivery of cannabis by a person at least 18 years of age to a person under 18 who is at least three years his or her junior (Section 7 of the Cannabis Control Act [720 ILCS 550/7]); and

- 32) Delivery of cannabis by a person at least 18 years of age to a person under 18 who is at least three years his or her junior (Section 7 of the Cannabis Control Act [720 ILCS 550/7]);

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Administrative Code:** Title 59, Chapter I, Part 119, Sub part B, Section 119.261.

**Application for waiver of the prohibition against employment [in Developmental Training Programs] b. Definitions** For the purposes of this Section, the following terms are defined:

"Applicant." A person seeking employment with a provider who has received a bona fide conditional offer of employment. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15]) "Conditional offer of employment." A bona fide offer of employment by a provider to an applicant, which is contingent on the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) through (32) of this Section. (Section 15 of the Health Care Worker Background Check Act [225 ILCS 46/15]) "Conditional offers" d. Effective January 1, 1996, if the provider makes a conditional offer of employment to an applicant other than a nurse aide who is not exempt under subsection (m) of this Section for a direct care position, the provider shall initiate or have initiated on its behalf a UCIA criminal history record check except as provided for in subsection (e)(2) of this Section. (Section 30(c) of the Health Care Worker Background Check Act [225 ILCS 46/30(c)])

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

All candidates are asked to disclose any criminal history and are subject to a State Police background check after employment commences. Candidates with a criminal history go through an administrative review process to determine if employment can begin/continue. Candidates for direct-care and commercial driver's license positions also must pass pre-employment drug screening.

1,242 total Criminal Reviews conducted following conditional offer of employment;  
100 (both DHS positions and contractual position) candidates were hired with convictions in background check

# **DEPARTMENT OF JUVENILE JUSTICE**

## **Public Safety/Executive Agency**

**FY14 Headcount: 1,058**

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### **Summary of Agency Operations**

The Illinois Department of Juvenile Justice (DJJ) rehabilitates youth through unique institutional and programmatic services. This therapeutic and strength-based approach to programming, discharge planning and post release aftercare will reduce costs. It will also improve community safety by investing in community-based services and supports (when appropriate) and reduce recidivism.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

All employees, contractors, and volunteers (excluding outside workers who do not work with juveniles or juvenile records such as delivery persons, garbage collectors and who are escorted at all times) who serve the Department are subject to criminal-record based restrictions in accordance **Administrative Directive 01.02.107 Paragraph I.B.**

**Statutory/ regulatory restrictions applicable to internal hiring:**  
N/A

#### **Agency policy restrictions applicable to internal hiring**

#### **Administrative Directives 01.02.107 Paragraph I. B, and 03.02.100 Paragraph II. F.5.c.**

Until 2006, the DJJ was a division of the IDOC. As a result, many of the DJJ's policies and procedures are the same as DOC's rules and procedures. The DJJ is currently in the process of reviewing and updating all of its policies and procedures however, as it relates to this inquiry, the policies and procedures are currently the same for both agencies. Staff performing background checks and involved with the hiring process for DOC perform the same work for DJJ under a Shared Services Agreement and/or through the Public Safety Shared Services Center.

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes

##### **(2) background check review procedure**

The DJJ conducts two types of background investigations:

- a. A “computer criminal history check or name check” is a review of the applicant’s criminal history through the Law Enforcement Agencies Data System (LEADS) and is conducted on all applicants
- b. A “complete background investigations” include the above inquiry and review of the applicant’s driver’s license, Firearm Owner’s Identification (FOID), employment reference checks, offender, juvenile, and visitor tracking systems within the Department, and Military checks (if applicable). The complete background investigation is conducted on all state employee applicants, employees, contractual employees, student workers, interns, volunteers who regularly work with offenders and consultants who work with offenders.

### **Exemption, waiver, or review mechanisms**

In accordance with **Administrative Directive 03.02.100, Administrative Review of Personnel and Service Issues, paragraph II.F.5.c:** “The applicant must be permitted an opportunity to explain the circumstances of the alleged conduct.” Additionally, denial letters state: “You may appeal this decision by submitting your explanation and request for reconsideration in writing to the Background Investigations Unit at the above address, or by fax to 217-522-4366.”

### **Total number of people who underwent a background check**

Not reported to the Task Force

### **Occupational Licensing, Certification, Regulation**

Secure residential youth care facility employee or licensed operator; Juvenile sex offender evaluation and treatment providers

### **Occupational licensing restrictions based on criminal history, by statute or regulation**

Secure residential youth care facility employee or licensed operator

### **730 ILCS 175/45-25 (Criminal Background Investigations for applicants)**

Information concerning convictions of a license applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon written request, to the applicant before final action by the Department on the application. Information on convictions of employees or prospective employees of facilities licensed under this Act shall be provided to the operator of the facility, and, upon written request, to the employee or prospective employee. Information concerning criminal charges and the disposition of charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required by this Section, and may not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or a facility employee. Only information and standards that bear a reasonable and rational relation to the performance of a facility shall be used by the Department or any licensee. Any employee of the Department, Department of State Police, or a facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions of a facility applicant or facility



employee is guilty of a Class A misdemeanor unless release of that information is authorized by this Section.

**Administrative Code: Title 20, Chapter I, Subchapter h, Part 801, Sub part A, Section 801.90. Background Investigations**

a) No secure residential youth care facility license applicant may receive a license, permit, or an expedited permit from the Department, and no person may be employed by a licensed facility unless he or she provides written authorization for a background check which may include, but not be limited to:

2) A check of the criminal justice information systems, including, but not limited to, those maintained by the Illinois Department of State Police, the Federal Bureau of Investigation, and the United States Department of Justice, to determine whether the person has been charged with a crime, and if so, the disposition of the charges;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**730 ILCS 175/45-30 (License Eligibility)**

b) No applicant may receive a license from the Department and no person may be employed by a secure residential youth care facility licensed by the Department who has been declared a sexually dangerous person under the Sexually Dangerous Persons Act or convicted of committing or attempting to commit any of the following offenses under the Criminal Code of 1961 or the Criminal Code of 2012:

- (1) First degree murder
- (2) A sex offense under Article 11, except offenses described in Section 11-7, 11-8, 11-12, 11-13, 11-18, 11-35, 11-40, and 11-45.
- (3) Kidnapping
- (4) Aggravated kidnapping
- (5) Child abduction
- (6) Aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05
- (7) Criminal sexual assault
- (8) Aggravated criminal sexual assault
- (8.1) Predatory criminal sexual assault of a child
- (9) Criminal sexual abuse
- (10) Aggravated criminal sexual abuse
- (11) a federal offense or an offense in any other state the elements of which are similar to any of the foregoing offenses

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 20, Chapter I, Subchapter h, Part 801, Sub part A, Section 801.100. Criminal Convictions and Pending Criminal Charges**

b. No applicant may receive a license from the Department [and no person may be employed by a secure residential youth care facility licensed by the Department] who has been declared a

sexually dangerous person under the Sexually Dangerous Persons Act or convicted of committing or attempting to commit any of the following offenses under the Criminal Code of 1961 or the Criminal Code of 2012: **first degree murder; indecent solicitation of a child; indecent solicitation of an adult; public indecency; sexual exploitation of a child; sexual relations within families; prostitution; solicitation of a sexual act; soliciting for a prostitute; soliciting for a juvenile prostitute; pandering; keeping a place of prostitution; keeping a place of juvenile prostitution; patronizing a juvenile prostitute; pimping; juvenile pimping; exploitation of a child; obscenity; child pornography; kidnapping; aggravated kidnapping; child abduction; aggravated battery of a child; criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse; and an offense in any federal or state jurisdiction for which the elements are similar to any of the foregoing offenses.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

### **Occupational Contracting**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Agency Employment Restriction Report:**

Most policies are consistent with the Department of Corrections. All applicants are subject to LEADS checks, and many are also subject to a more complete background investigation, including review of the applicants driver's license, Military checks, etc. Positions subject to this complete investigation are listed in the report.

Please note that, until 2006, the DJJ was a division of the IDOC. As a result, many of the DJJ's policies and procedures are the same as DOC's rules and procedures. The DJJ is currently in the process of reviewing and updating all of its policies and procedures however, as it relates to this inquiry, the policies and procedures are currently the same for both agencies. Staff performing background checks and involved with the hiring process for DOC perform the same work for DJJ under a Shared Services Agreement and/or through the Public Safety Shared Services Center.

See Administrative Directives 01.02.107 Paragraph I. B, and 03.02.100 Paragraph II. F.5.c.

## **DEPARTMENT OF LABOR**

**Economic Development and Infrastructure Agency/Executive Agency**

**FY14 Headcount: 94**

<http://www.illinois.gov/idol/Pages/default.aspx>

### **Summary of Agency Operations**

The Department of Labor (DOL) promotes and protects the rights, wages, welfare, working conditions, and safety and health of Illinois workers through enforcement of state labor laws. These laws include Minimum Wage Law, Wage Payment and Collection Act, Child Labor Law, Equal Pay Act, Victims' Economic Security and Safety Act, Prevailing Wage Act, Safety Inspection and Education Act, and Health and Safety Act. The department issues licenses for nurse employment agencies, employment agencies and employment counselors. It also regulates carnival and amusement rides under the Carnival and Amusement Ride Safety Act.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None, per agency report.

#### **Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None, per agency report

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes (CMS 100 and CMS 284)

##### **(2) Background check review procedure**

Background checks are not done, per agency report

#### **Exemption, waiver, or review mechanisms**

N/A

#### **Total number of people who underwent a background check**

N/A

### **Occupational Licensing, Certification, Regulation**

#### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Nurse agency operator; Employment agency operator; Employment counselor

## **Statutory/regulatory restrictions applicable to occupational licensing**

### **Nurse Agency Licensing Act [225 ILCS 510/]**

#### **225 ILCS 510/8 (Grounds for denial of a license)**

An application for an employment agency license **may be denied** for any of the following reasons: b. **conviction of the applicant of a felony**;

**Restriction Type:** Discretionary

**Restriction Duration:** Ever

### **Administrative Code: Title 68, Chapter III, part 690, Section 690.170. Denial of Initial License**

A license **shall be denied** for any, but not limited to the following: b. a felony conviction of the prospective licensee

**Restriction Type:** Mandatory

**Restriction Duration:** Ever

### **Private Employment Agency Act [225 ILCS 515/].**

#### **225 ILCS 515/1 (Licenses; fees; application; schedule of fees and charges)**

The applicant (for private employment agency license) shall furnish to the Department of Labor an affidavit stating that he has never been a party to any **fraud, has no jail or prison record**, belongs to no subversive societies, is of **good moral character**, has business integrity and is financially responsible.

In determining moral character and qualification for licensing, the Department may take into consideration any criminal conviction of the applicant, but such a conviction shall not operate as a bar to licensing.

**Restriction Type:** Discretionary

**Restriction Duration:** Ever

#### **225 ILCS 515/4 (Employment counselors; licensing)**

The employment counselor applicant must furnish satisfactory proof to the Department that he has never been a party to any **fraud, has no jail record**, belongs to no subversive societies and is **of good moral character** and business integrity.

In determining honesty, truthfulness, integrity, moral character and business integrity under this Section, the **Department may take into consideration any felony conviction of the applicant**, but such a conviction shall not operate as a bar to licensing.

**Restriction Type:** Discretionary

**Restriction Duration:** Ever

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

Illinois Procurement Code (30 ILCS 500/)

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)  
30 ILCS 500/50-10 (Felons)  
30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The Department does not have an established policy with respect to restricting employment of employees who may have a criminal history. The Department has not submitted applicants for employment to criminal background checks, and has not denied employment to any person as a result of a criminal background check conducted by the Department.

# **DEPARTMENT OF MILITARY AFFAIRS**

## **Public Safety/Executive Agency**

**FY14 Headcount: 244**

<http://www.il.ngb.army.mil/>

### **Summary of Agency Operations**

The Department of Military Affairs acts as the channel of communication between the federal government and the State of Illinois on all matters pertaining to the state military. The military forces are comprised of the Illinois Army National Guard and the Illinois Air National Guard. The guard has approximately 13,200 members and is responsible for carrying out a dual mission, federal and state. The guard's federal mission includes providing highly-trained, well-equipped personnel and units capable of rapid deployment when called upon by the president in time of war or national emergency. The state mission of the guard is to support civil authorities when called upon by the governor, in order to protect life and property and preserve peace, order and public safety.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Military titles that are subject to a federal government National Agency Check in order to be eligible for federal computer network access.

Civilian titles that are subject to a federal government National Agency Check in order to be eligible for federal computer network access.

#### **Statutory restrictions applicable to internal hiring (Illinois)**

None

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100) for positions subject to the Personnel Code

##### **2) Background check review procedure**

Federal National Agency Check conducted on certain civilian positions as a condition for access to the federal computer network, per agency's report to the Task Force.

Detail on offenses or criminal justice events (arrests, convictions) deemed disqualifying not specified in agency's report.

**Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

22

**Occupational Licensing, Certification, Regulation****Occupations subject to criminal history restrictions**

N/A

**Employment Contracting****Contracting restrictions based on criminal history****Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

Department of Military Affairs employees in the certain listed job titles (military and civilian) are required to pass a federal government National Agency Check, which includes a criminal background check.

During the past two years, 22 applicants underwent NACs, and none were found disqualified.

# **DEPARTMENT OF NATURAL RESOURCES**

## **Environment and Business Regulation/Executive Agency**

**FY14 Headcount: 1,342**

<http://www.dnr.illinois.gov/Pages/default.aspx>

### **Summary of Agency Operations**

The Department of Natural Resources (DNR) protects natural, recreational and cultural resources for present and future generations. DNR manages 324 state parks and recreational areas (more than 490,000 acres) and has repurposed 1,110 abandoned mined sites to date. In addition to funding conservation programs, the agency provides public safety by enforcing the law with its conservation police officers and by monitoring water supply from Lake Michigan. Each year, DNR outdoor recreation initiatives create a statewide economic impact of more than \$3 billion.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Conservation police

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Statutory restrictions applicable to internal hiring**

##### **20 ILCS 805/805-535 Conservation Police Officers**

(3) The person must successfully obtain certification as a police officer under the standard in effect at the time unless that person already holds that certification.

**The Illinois Police Training Act [50 ILCS 705/6]** states that certificates are to be issued only if the applicant is a person of **good character** and has not been **convicted of a felony offense, any of the misdemeanors in Sections 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or the Criminal Code of 2012, subdivision (a)(1) or (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961 or the Criminal Code of 2012, or subsection (a) of Section 17-32 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 5 or 5.2 of the Cannabis Control Act, or a crime involving moral turpitude** under the laws of this State or any other state which if committed in this State would be punishable as a felony or a crime of moral turpitude.

#### **Criminal history record check procedures**

- 1) Self-disclosure on application**



## **2) Background check review procedure**

### **Exemption, waiver, or review mechanisms**

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

### **Occupational Licensing, Certification, Regulation**

**Occupations subject to criminal history restrictions**

### **Agency Contracting**

**Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

#### **30 ILCS 500/50-2 (Continuing disclosure; false certification)**

Continuing disclosure; false certification. Every person that has entered into a multi-year contract and every subcontractor with a multi-year subcontract shall certify, by July 1 of each fiscal year covered by the contract after the initial fiscal year, to the responsible chief procurement officer whether it continues to satisfy the requirements of this Article pertaining to eligibility for a contract award. If a contractor or subcontractor is not able to truthfully certify that it continues to meet all requirements, it shall provide with its certification a detailed explanation of the circumstances leading to the change in certification status. A contractor or subcontractor that makes a false statement material to any given certification required under this Article is, in addition to any other penalties or consequences prescribed by law, subject to liability under the Illinois False Claims Act for submission of a false claim.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795); 96-1304, eff. 7-27-10.)

#### **30 ILCS 500/50-5 (Bribery)**

##### **a. Prohibition**

No person or business shall be awarded a contract or subcontract under this Code who:

1) Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's employee's official capacity

#### **Restriction Type:**

Mandatory

#### **Restriction Duration:**

Not mentioned in the above listed statute

### **30 ILCS 500/50-5 (c) (Conduct on behalf of business)**

For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct.

### **30 ILCS 500/50-10 (Felons)**

a. Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

**Restriction Type:**  
**Mandatory**

**Restriction Duration:**  
From the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

### **30 ILCS 500/50-10.5 (Prohibited bidders and contractors)**

Unless otherwise provided, no business shall bid or enter into a contract or subcontract under this Code if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

**Restriction Type:**  
**Mandatory**

**Restriction Duration:**  
For a period of 5 years from the date of conviction

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The agency position "Conservation Police" is subject to restrictions based on criminal history. Criminal histories are obtained through self-disclosure on applications and through a background check review procedure. All occupations were subject to criminal history restrictions in 2011.

# DEPARTMENT OF PUBLIC HEALTH

## Human Services Agency/Executive Agency

**FY14 Headcount: 1,164**

<http://www.idph.state.il.us/>

### **Summary of Agency Operations:**

The Department of Public Health (DPH) promotes and protects the health of Illinoisans through the prevention and control of disease and injury. Programs and services include: childhood immunization; food, water and drug testing; hospital and nursing home licensure; infectious diseases control; vital records; health statistics collection and evaluation; newborn screenings for genetic disorders; women's health promotion; and emergency preparedness. These programs touch virtually every age, aspect, and stage of an individual's life and make Illinois a safer and healthier place to live.

### **Internal Hiring:**

#### **Agency positions subject to restrictions based on criminal history**

Certified Nurse's Assistant;

EMS: Emergency Medical Technician, Emergency Medical Technician Intermediated, Emergency Medical Technician Paramedic & when approved the Advanced Emergency Medical Technician. These licensees could potentially work on Ambulance services, Rescue Squads or in First Aid or Special events locations, i.e. stadiums, race tracks, fair grounds.

#### **This agency is subject to personnel or non-personnel code.**

Personnel code agency

### **Statutory Restrictions Applicable to Internal Hiring:**

#### **210 ILCS 47/3-206 (Curriculum for training nursing assistants and aides)**

The Department shall prescribe a curriculum for training nursing assistants, habilitation aides, and child care aides.

(a-0.5) An educational entity, other than a secondary school, conducting a nursing assistant, habilitation aide, or child care aide training program shall initiate a criminal history record check in accordance with the Health Care Worker Background Check Act prior to entry of an individual into the training program. A secondary school may initiate a criminal history record check in accordance with the Health Care Worker Background Check Act at any time during or after a training program.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

#### **210 ILCS 47/3-206.02 (Designation on registry for offense)**

(a) The Department, after notice to the nursing assistant, habilitation aide, home health aide, or child care aide, may designate that the Department has found any of the following:

(4) The nursing assistant, habilitation aide, home health aide, or child care aide has been convicted of (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) any crime that is directly related to the duties of a nursing assistant, habilitation aide, or child care aide.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

## **225 ILCS 46 (Health Care Worker Background Check)**

### **225 ILCS 46/25 (Persons ineligible to be hired by health care employers and long-term care facilities)**

In the discretion of the Director of Public Health, as soon after January 1, 1996, January 1, 1997, January 1, 2006, or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the following offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1, 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 12C-5, 16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2, or subdivision (a)(4) of Section 11-14.4, or in subsection (a) of Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of 2012; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) In the discretion of the Director of Public Health, as soon after January 1, 2004 or October 1, 2007, as applicable, and as is reasonably practical, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3, or subsection (b) of Section 17-32, subsection (b) of Section 18-1, or subsection (b) of Section 20-1, of the Criminal Code of 1961 or the Criminal Code of 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 50-50 of the Nurse Practice Act, unless the applicant or employee obtains a waiver pursuant to Section 40 of this Act.

**Restriction Type:** Mandatory

**Restriction duration:** Not mentioned in the above listed statute

**225 ILCS 46/33 (Fingerprint-based criminal history records)**

(a) A fingerprint-based criminal history records check is not required for health care employees who have been continuously employed by a health care employer since October 1, 2007, have met the requirements for criminal history background checks prior to October 1, 2007, and have no disqualifying convictions or requested and received a waiver of those disqualifying convictions. These employees shall be retained on the Health Care Worker Registry as long as they remain active. Nothing in this subsection (a) shall be construed to prohibit a health care employer from initiating a criminal history records check for these employees. Should these employees seek a new position with a different health care employer, then a fingerprint-based criminal history records check shall be required.

(b) On October 1, 2007 or as soon thereafter as is reasonably practical, in the discretion of the Director of Public Health, and thereafter, any student, applicant, or employee who desires to be included on the Department of Public Health's Health Care Worker Registry must authorize the Department of Public Health or its designee to request a fingerprint-based criminal history records check to determine if the individual has a conviction for a disqualifying offense. This authorization shall allow the Department of Public Health to request and receive information and assistance from any State or local governmental agency. Each individual shall submit his or her fingerprints to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information prescribed by the Department of State Police. The fingerprints submitted under this Section shall be checked against the fingerprint records now and hereafter filed in the Department of State Police criminal history record databases. The Department of State Police shall charge a fee for conducting the criminal history records check, which shall not exceed the actual cost of the records check. The livescan vendor may act as the designee for individuals, educational entities, or health care employers in the collection of Department of State Police fees and deposit those fees into the State Police Services Fund. The Department of State Police shall provide information concerning any criminal convictions, now or hereafter filed, against the individual.

(c) On October 1, 2007 or as soon thereafter as is reasonably practical, in the discretion of the Director of Public Health, and thereafter, an educational entity, other than a secondary school, conducting a nurse aide training program must initiate a fingerprint-based criminal history records check requested by the Department of Public Health prior to entry of an individual into the training program.

(d) On October 1, 2007 or as soon thereafter as is reasonably practical, in the discretion of the Director of Public Health, and thereafter, a health care employer who makes a conditional offer of employment to an applicant for a position as an employee must initiate a fingerprint-based criminal history record check, requested by the Department of Public Health, on the applicant, if such a background check has not been previously conducted.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

(f) A direct care employer may initiate a fingerprint-based background check requested by the Department of Public Health for any of its employees, but may not use this process to initiate background checks for residents. The results of any fingerprint-based background check that is initiated with the Department as the requestor shall be entered in the Health Care Worker Registry.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**225 ILCS 46/40[a] (Waiver)**

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

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

**430 ILCS 115/9 (Administration and enforcement of Act; regulations; revisions of Code; notices; inspections; suspension of issuance of seals)**

List of disqualifying offenses (attached)

**Year restriction was adopted**

October 15, 2004, Sect. 5 Purpose (see attached).

EMS: HB5183's ruling became effective January 1, 2011. Up to this time there was no regulation that prevented persons with criminal backgrounds of any kind to become a licensed Emergency Medical Technician within the State of Illinois.

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes

**(2) Background check review procedure**

Illinois State Police (ISP) sends rap sheets to the Illinois Department of Public Health (IDPH) database and each rap sheet with a hit is determined by a staff member based on the Disqualifying Offense sheet. The procedure is discussed in the Healthcare Worker Background Check Act and Code (attached).

EMS: The agency requires the information to be provided on the applicant form for initial licensure and will soon require it for all renewals. Individuals disclosing felony convictions must provide a current Illinois State Police Criminal background report. Each individual receives a review by program staff and IDPH legal counsel to determine if the individual is considered a potential threat to the public the licensee will be serving.

**Exemption, waiver, or review mechanisms**

**Administrative Code, Title 77, Chapter 1, Sub chapter u, Part 955, Section 955.260  
Application for Waiver**

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

(1) Completing a waiver application on a form prescribed by the Department of Public Health:

B) If the applicant has been convicted in another state, the applicant shall provide information concerning those convictions or attach the complete results of a criminal history records check from the other states;

C) If the applicant has a federal conviction, the applicant shall provide information concerning that conviction or attach the complete results of a criminal history records check from the Federal Bureau of Investigation;

**Administrative Code, Title 77, Chapter 1, Sub chapter u, Part 955, Section 955.270  
Department Review of Waiver Application**

(d) Waivers will not be granted to individuals who have not met the following time frames.

(1) Single disqualifying misdemeanor conviction – no earlier than one year after the conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than one year after the conviction date

(2) Two to three disqualifying misdemeanor convictions – no earlier than three years after the most recent conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than three year after the most recent conviction date

(3) More than three disqualifying misdemeanor convictions – no earlier than five years after the most recent conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than five year after the most recent conviction date

(4) Single disqualifying felony convictions – no earlier than three years after the conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than three year after the conviction date

(5) Two to three disqualifying felony convictions – no earlier than five years after the most recent conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than five year after the most recent conviction date

(6) More than three disqualifying felony convictions – no earlier than ten years after the most recent conviction date.

**Restriction Type:** Mandatory

**Restriction Duration:** No earlier than ten year after the most recent conviction date

e) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix A of this Part.

g) Appeal Process for Convictions Listed in Appendix A of this Part:

(3) The Director or designee will consider the information submitted with the appeal application and the results of a fingerprint-based criminal history records check to determine whether to grant a waiver as a result of an appeal. If the Director or designee determines that the applicant does not pose a threat to the health or safety of residents, patients, or clients, the Director will issue a waiver.

h) Waiver Revocation

(1) The Department will automatically revoke a waiver if the waiver recipient is convicted of any additional disqualifying offense.

**Administrative Code, Title 77, Chapter 1, Sub chapter u, Part 955, Section 955.275  
Rehabilitation Waiver**

a) The Department may consider the results of a fingerprint-based criminal history records check for a rehabilitation waiver, if sufficient time has passed since the last disqualifying conviction. A rehabilitation waiver may be granted without a waiver application being submitted by the student, applicant, or employee.

b) The Department may consider the results of a fingerprint-based criminal history records check for a rehabilitation waiver, if sufficient time has passed since the last disqualifying conviction. A rehabilitation waiver may be granted without a waiver application being submitted by the student, applicant, or employee.

c) A waiver without a waiver application shall not be granted unless the student, applicant, or employee has met the following time frames:

(1) Single disqualifying misdemeanor conviction – 5 years after conviction date

**Restriction Type:** Mandatory

**Restriction Duration:** 5 years after conviction date

(2) Two disqualifying misdemeanor convictions – 7 years after conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** 7 years after conviction date

(3) Three or more disqualifying misdemeanor convictions – 9 years after conviction date;

**Restriction Type:** Mandatory

**Restriction Duration:** 9 years after conviction date

(4) Single disqualifying felony conviction – 7 years after conviction date;

**Restriction Type:** Mandatory



**Restriction Duration:** 7 years after conviction date

(5) Two disqualifying felony convictions – 9 years after conviction date; and

**Restriction Type:** Mandatory

**Restriction Duration:** 9 years after conviction date

(6) Three or more felony convictions shall not be considered for a rehabilitation waiver.

**Restriction Type:** Mandatory

**Restriction Duration:** Waiver shall not be considered

d) A waiver without a waiver application may be granted to an individual who has been convicted of committing or attempting to commit one or more of the offenses listed in Appendix B of this Part, if the time frames listed in subsection (c) have been met.

e) Upon receipt of the results of a criminal history records check that meets the requirements set forth in Sections 955.115 and 955.165 of this Part, the Department will review the convictions reported to determine whether the convictions are disqualifying in accordance with Section 25 of the Act and Section 955.160 of this Part and whether the circumstances of the convictions meet the criteria set forth in this Section. The Department will grant a rehabilitation waiver to the applicant if: the criteria of this Section are met and no additional information is needed to verify completion of parole (i.e., probation or mandatory supervised release) or payment of fines or restitutions; the Health Care Worker Registry does not show any administrative findings of abuse, neglect or misappropriation of property; and the applicant or employee has no other disqualifying convictions.

EMS: under current legislation, the Department decision is final.

**Total number of people who underwent a background check (February 1, 2010 – February 1, 2012):**

The number and percentage of individuals who underwent a criminal history background check:  
238,131

The number and percentage of individuals who sought an exemption or waiver from the disqualification;

Total = 2905

Granted = 2285

Denied = 620 (21.3%)

The number and percentage of individuals who sought an exemption or waiver who were subsequently granted the exemption or waiver at the first level of agency review (if multiple levels of review are available): 2285

If the agency maintains records of active licenses or certifications, the executive agency shall provide the total number of employees in occupations subject to criminal history restrictions:  
total # of CNA's = 181,636

**EMS:**

The total number of people currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks or restrictions: there are approximately 37,277 active licensees in the state data base. The agency has no way of knowing how many of these persons are employed or have a criminal background. Since renewals only occur every four years it will be sometime in 2016 before all individuals with backgrounds will be identified as the administrative rules for this background requirement became effective this year.

The number and percentage of individuals who underwent a criminal history background check: So far the numbers have been low. It is estimated that there have only been 15-20 personal History Reviews to date.

The number and percentage of individuals who were merely required to disclose their criminal history without a criminal history background check: 100% of all new licensees applying for licenses must report felony convictions (unable to provide numbers at this time due to an IT failure). All persons renewing beginning September of 2012 will have to report felony convictions.

The number and percentage of individuals who were found disqualified based on criminal history disclosure by the applicant: two

The number and percentage of individuals who were found disqualified where no waiver or exemption process is available: two.

If the agency maintains records of active licenses or certifications, the executive agency shall provide the total number of employees in occupations subject to criminal history restrictions: 37,277 (estimated as this number changes weekly).

**AGENCY occupational licensing restrictions based on criminal history:****Alternative Health Care Delivery Act  
Health Care Facility or Programs****210 ILCS 3/45 (License Denial, Suspension, or Revocation)**

A license may be denied, suspended, or revoked, or the renewal of a license may be denied, for any of the following reasons:

(2) Conviction of the owner or operator of the alternative health care model (i) of a felony or (ii) of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 77, Chapter I, Sub chapter b, Part 270, Section 270.1600.**  
**Adverse Licensure**

b) A license may be denied, suspended, or revoked, or the renewal of a license may be denied or administrative fine assessed, for any of the following reasons:

2) Conviction of the owner or operator of the subacute care hospital model of a felony or of any other crime under the laws of any state or of the United States arising out of, or in connection with, the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter b, Part 270, Section 270.2250.**  
**Health Care Worker Background Check**

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

“See restrictive offenses listed in the Health Care Worker Background Check Act”

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**210 ILCS 5/6 (Ambulatory Surgical Treatment Center Act)**

Upon receipt of an application for a license, the Director may deny the application for any of the following reasons:

(1) Conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if a corporation, of any of its officers or directors, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or , in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence, if the Director determines, after investigation, that such person has not been sufficiently rehabilitated

to warrant the public trust; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code:** Title 77, Chapter I, Sub chapter b, Part 205, Sub part 205.120

**Application for Initial Licensure**

b) The initial application shall include the following information:

5) Information regarding any conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if the applicant is a corporation, of any of its officers or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude in the last five years.

**Restriction Type:** Mandatory

**Restriction Duration:** In the last 5 years

**Administrative Code:** Title 77, Chapter I, Sub chapter b, Part 205, Sub part 205.125

**Application for License Renewal**

b) An application for license renewal shall include the following information:

5) Information regarding any conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if the applicant is a corporation, of any of its officers or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude in the last five years.

**Restriction Type:** Mandatory

**Restriction Duration:** In the last 5 years

### **Postsurgical Recovery Care Center Model**

**Administrative Code:** Title 77, Chapter I, Sub chapter b, Part 210, Section 210.1200

**Application for and Issuance of a Licensure to Operate a Postsurgical Recovery Care Center Model**

b) Applications for a license to operate a Postsurgical Recovery Care Center Model shall be in writing on forms provided by the Department. The application shall be made under oath and shall contain the following:

13) Information regarding any conviction of the owner or operator of the proposed Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above mentioned administrative code

**Administrative Code:** Title 77, Chapter I, Sub chapter b, Part 210, Section 210.1600.

**Adverse Licensure Action**

b) A license may be denied, suspended, revoked, the renewal of a license may be denied or administrative fine assessed, for any of the following reasons:

2) Conviction of the owner or operator of the Postsurgical Recovery Care Center Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Assisted Living and Shared Housing Act**

#### **210 ILCS 9/55 (Grounds for denial of a license)**

An application for a license may be denied for any of the following reasons:

(2) Conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the establishment, of a felony or of 2 or more misdemeanors involving moral turpitude during the previous 5 years as shown by a certified copy of the record of the court of conviction

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as shown by a certified copy of the record of the court of conviction

#### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 295, Sub part A, Section 295.900 Denial of a Licensure**

a) An application for a license may be denied for any of the following reasons:

3) Conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the establishment, of a felony or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of the record of the court of conviction

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous five years as shown by a certified copy of the record of the court of conviction

#### **210 ILCS 9/65 (Revocation, suspension, or refusal to renew license)**

(a) The Department, after notice to the applicant or licensee, may suspend, revoke, or refuse to renew a license in any case in which the Department finds any of the following:

(2) That there has been a conviction of the licensee, or of the person designated to manage or supervise the establishment, of a felony or of 2 or more misdemeanors involving moral turpitude during the previous 5 years as shown by a certified copy of the record of the court of conviction

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as shown by a certified copy of the record of the court of conviction

#### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 295, Sub part A, Section 295.1000 Revocation, Suspension, or Refusal to Renew a License**

a) The Department, after notice to the applicant or licensee, may suspend, revoke, or refuse to renew a license in any case in which the Department finds any of the following:

2) That there has been a conviction of the licensee, or of the person designated to manage or supervise the establishment, of a felony or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of the record of the court of conviction

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Community Living Facilities licensing Act**

#### **210 ILCS 35/11**

#### **(Grounds for denial or revocation of a license)**

The Department may deny or begin proceedings to revoke a license if the applicant or licensee has been convicted of a felony or 2 or more misdemeanors involving moral turpitude, as shown by a certified copy of the court of conviction; if the Department determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust; or upon other satisfactory evidence that the moral character of the applicant or licensee is not reputable.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

#### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 220, Section 220.1200. Application for an Issuance of a License to Operate a Community-Based Residential Rehabilitation Center Model**

a) Applications for a license to operate a Community-Based Residential Rehabilitation Care Center Model shall be in writing on forms provided by the Department. The application shall be made under oath and shall contain the following:

11) Information regarding any conviction of the owner or operator of the proposed Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

#### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 220, Section 220.1600.**

#### **Adverse Licensure Action**

b) A license may be denied, suspended, or revoked, or the renewal of a license may be denied or administrative fine assessed, for any of the following reasons:

2) Conviction of the owner or operator of the Community-Based Residential Rehabilitation Center Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Nursing Home Care Act**

### **210 ILCS 45/2-201.6 (Criminal history report)**

d) The Department of State Police shall provide the Criminal History Report to a licensed forensic psychologist. After (i) consideration of the Criminal History Report, (ii) consultation with the facility administrator or the facility medical director, or both, regarding the mental and physical condition of the identified offender, and (iii) reviewing the facility's file on the identified offender, including all incident reports, all information regarding medication and medication compliance, and all information regarding previous discharges or transfers from other facilities, the licensed forensic psychologist shall prepare an Identified Offender Report and Recommendation. The Identified Offender Report and Recommendation shall detail whether and to what extent the identified offender's criminal history necessitates the implementation of security measures within the long-term care facility. If the identified offender is a convicted or registered sex offender or if the Identified Offender Report and Recommendation reveals that the identified offender poses a significant risk of harm to others within the facility, the offender shall be required to have his or her own room within the facility.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 295, Sub part C, Section 295.3040 Health Care Worker Background Check**

An establishment shall comply with the Health Care Worker Background Check Act and the Health Care Worker Background Check Code.

**Restriction Type:** Mandatory

**Restriction Duration:** Not listed in the above mentioned administrative code

### **210 ILCS 45/3-117 (Grounds for denial of license)**

An application for a license may be denied for any of the following reasons:

(2) Conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as shown by a certified copy of the record of the court of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as shown by a certified copy of the record of the court of conviction.

### **210 ILCS 45/3-119 (Revocation, suspension, or refusal to renew license)**

(a) The Department, after notice to the applicant or licensee, may suspend, revoke or refuse to renew a license in any case in which the Department finds any of the following:

(2) Conviction of the licensee, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as shown by a certified copy of the record of the court of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as shown by a certified copy of the record of the court of conviction.

#### **Nursing Home Care Act (Licensing)**

##### **210 ILCS 45/3-206.02**

a-1) Nursing assistants, habilitation aides, or child care aides seeking to be included on the registry maintained under Section 3-206.01 on or after January 1, 1996 must authorize the Department of Public Health or its designee to request a criminal history record check in accordance with the Health Care Worker Background Check Act and submit all necessary information. An individual may not newly be included on the registry unless a criminal history record check has been conducted with respect to the individual.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed Statute

#### **ID/DD Community Care Act**

##### **210 ILCS 47/3-117 (Denial of license; grounds)**

An application for a license may be denied for any of the following reasons:

2) Conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervision the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as showed by a certified copy of the record of the court of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as showed by a certified copy of the record of the court of conviction.

**Administrative Code:** Title 77, Chapter I, Sub chapter c, Part 340, Section 340.1130.

##### **Criteria for Adverse Licensure Actions**

b. The Director or his or her designee may take adverse licensure action against a facility based on a finding that one or more of the following criteria are met:

2) Conviction of the licensee, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, during the previous five years as shown by a certified copy of the record of the court of conviction. (Section 3-119 (a)(2) of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous five years as shown by a certified copy of the record of the court of conviction.

##### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 390, Sub part A. Section 390.170. Denial of Initial Licensure**

a. A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 390.165 or the following criteria are met.



1) The applicant, any member of the firm, partnership, or association which is the applicant, any officer or stockholder of the corporation which is the applicant, or the person designated to manage or supervise the facility has been convicted of any of the following crimes during the previous five years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony.

B) Two or more misdemeanors involving moral turpitude. (Section 3-117(2) of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous five years.

#### **210 ILCS 47/3-119 (Suspension, revocation, or refusal to renew license)**

(a) The Department, after notice to the applicant or licensee, may suspend, revoke or refuse to renew a license in any case in which the Department finds any of the following:

(2) Conviction of the licensee, or of the person designated to manage or supervise the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as shown by a certified copy of the record of the court of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as shown by a certified copy of the record of the court of conviction.

### **Specialized Mental Health Rehabilitation Act**

#### **210 ILCS 48/3-117 (Denial of license; grounds)**

An application for a license may be denied for any of the following reasons:

2) Conviction of the applicant, or if the applicant is a firm, partnership or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervision the facility, of a felony, or of 2 or more misdemeanors involving moral turpitude, during the previous 5 years as showed by a certified copy of the record of the court of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous 5 years as showed by a certified copy of the record of the court of conviction.

### **Emergency Medical Services (EMS) System Act**

#### **210 ILCS 50/3.50 (Emergency Medical Technician (EMT) Licensure)**

d) The Department shall have the authority and responsibility to:

(8) Suspend, revoke, or refuse to issue or renew the license of any licensee, after an opportunity for an impartial hearing before a neutral administrative law judge appointed by the Director, where the preponderance of the evidence shows one or more of the following:

(H) The licensee has been conviction (or entered a plea of guilty or non-contendere) by a court of competent jurisdiction of a Class X, Class 1, or Class 2 felony in this State or an out-of-state equivalent offense.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed Statute

**Administrative Code:** Title 77, Chapter 1, Sub chapter f, Part 518, Section 518.1150. **Initial Licensure Application**

d. The application shall contain the following information:

5. Information regarding any conviction of the applicant, or, if the applicant is a firm, partnership or association, of any if its members, or, if the applicant is a corporation, of any of its officers or directors, or of the person designated to manage or supervise the facility, of a felony or of two or more misdemeanors involving moral turpitude in the last five years.

**Restriction Type:** Mandatory

**Restriction Duration:** The last five years

### **Supportive Residences Licensing Act**

#### **210 ILCS 65/50 (Grounds for denial or revocation of a license) (Supportive Residences Licensing)**

The Department may deny or bring proceedings to revoke a license if the applicant or licensee has been convicted of a felony or 2 or more misdemeanors involving moral turpitude, as shown by a certified copy of the court of conviction; if the Department determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust; or upon other satisfactory evidence that the moral character of the applicant or licensee is not reputable.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code:** Title 77, Chapter I, Sub chapter c, Part 385, Section 385.2550. **Adverse Licensure Action**

b. Adverse licensure action shall be considered by the Department under the following conditions:

1. If the applicant or licensee has been convicted of a felony or two or more misdemeanors involving moral turpitude, as shown by a certified copy of the court's conviction, and

A) The Department determines after investigation that the person has not been sufficiently rehabilitated to warrant the public trust; or

B) Upon other satisfactory evidence that the moral character of the applicant or licensee is not reportable.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

#### **225 ILCS 46/55 (Immunity from liability) (Health Care Worker Background Check)**

A health care employer shall not be liable for the failure to hire or to retain an applicant or employee who has been convicted of committing or attempting to commit one or more of the offenses enumerated in subsection (a) of Section 25 of this Act. However, if an employee is

suspended from employment based on the results of a criminal background check conducted under this Act and the results prompting the suspension are subsequently found to be inaccurate, the employee is entitled to recover backpay from his or her health care employer for the suspension period provided that the employer is the cause of the inaccuracy. The Department of Public Health is not liable for any hiring decisions, suspensions, or terminations.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.150. Employment Prohibition**

a. A health care employer shall not knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents who has been convicted of committing or attempting to commit one or more of the offenses listed in Section 25 of the Act and Section 955.160 of this Part, unless the applicant or employee obtains a waiver pursuant to this Part. (Section 25(a) of the Act)

b. A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents, and no long-term care facility shall knowingly hire, employ, or retain any individual in a position with duties that involve or may involve contact with residents or access to the living quarters or financial, medical, or personal records of residents, if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in Section 955.160 of this Part as verified by court records, records from a State agency (e.g., Department of Corrections records), or an FBI criminal history record check, unless the applicant or employee obtains a waiver pursuant to this Part. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.160. Disqualifying Offenses**

The following offenses are disqualifying under the Act and this Part. Offenses are not considered disqualifying until the effective date of the legislation adding the offenses to the Act, regardless of the date an individual is convicted of the offense (see Appendix A through Appendix C of this Part).

- a) Violations under the Criminal Code of 1961:
- b) Violations under the Wrongs to Children Act:
- c) Violations under the Illinois Credit Card and Debit Card Act:
- d) Violation under the Criminal Jurisprudence Act: Cruelty to children (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368).
- e) Violations under the Cannabis Control Act: Manufacture, delivery, or possession with intent to deliver or manufacture cannabis; cannabis trafficking; delivery of cannabis on school grounds; delivering cannabis to a person under 18; calculated criminal cannabis

conspiracy [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709).

- f) Violations under the Illinois Controlled Substances Act: manufacture or delivery, or possession with intent to manufacture or deliver, a controlled substance other than methamphetamine, a counterfeit substance, or a controlled substance analog; controlled substance trafficking; manufacture, distribution, advertisement, or possession with intent to manufacture or distribute a look-alike substance; calculated criminal drug conspiracy; criminal drug conspiracy; delivering a controlled, counterfeit or look-alike substance to a person under 18; and engaging or employing a person under 18 to deliver a controlled, counterfeit or look-alike substance [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1).
- g) Violation under the Nurse Practice Act: practice of nursing without a license [225 ILCS 65/50-50 (was 225 ILCS 65/10-5)] (formerly Ill. Rev. Stat. 1991, ch. 111, par. 3506).
- h) Violations under the Methamphetamine Control and Community Protection Act [720 ILCS 646].

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.165. Fingerprint-Based Criminal History Records Check**

a. Educational entities, other than secondary schools, and health care employers are required to check the Health Care Worker Registry before allowing a student to enter a training program or hiring an employee to determine:

1. Whether a fingerprint-based criminal history records check has previously been conducted, which is indicated by the identifier of "FEE\_APP" or "CAAPP"

- A) As long as the student, applicant or employee has had such a background check and stays active on the Health Care Worker Registry, no further fingerprint-based criminal history record checks shall be deemed necessary. (Section 33(g) of the Act)
- B) If the individual has disqualifying convictions and a waiver has not been granted pursuant to this Part, the individual is not allowed to work as a direct care giver for a health care employer or as an individual with access to residents, the resident's living quarters, or the resident's financial, medical or personal records in a long-term care setting.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.180. Criminal History Records Check after Implementation**

a. A fingerprint-based criminal history records check is not required for health care employees who have been continuously employed by a health care employer prior to the implementation of the fingerprint-based criminal history records check as a fee applicant inquiry pursuant to Section 955.115 of this Part, have met the requirements for criminal history background checks prior to the implementation, and have no convictions that were disqualifying at the time that the

background check was initiated, or have requested and received a waiver of those disqualifying convictions pursuant to this Part. These employees shall be retained on the Health Care Worker Registry as long as they remain active. Nothing in the Act or this Part shall be construed to prohibit a health care employer from initiating a new criminal history records check for these employees. Should these employees seek a new position with a different health care employer, then a fingerprint-based criminal history records check shall be required and all of the convictions listed in Section 25 of the Act and Section 955.160 of this Part shall be considered disqualifying. (Section 33(a) of the Act).

b. For any employee employed after October 1, 2007, a criminal history records check shall be initiated in accordance with Section 33 of the Act and Sections 955.115 and 955.165 of this Part.

c. If a background check is initiated in accordance with subsection (a), a health care employer is not required to retain and, unless a waiver is obtained pursuant to this Part, shall not retain an individual in a position with duties involving direct care for clients, patients, or residents, and no long-term care facility is required to retain and, unless a waiver is obtained pursuant to this Part, shall not retain an individual in a position with duties that involve or may involve contact with residents or access to the living quarters or the financial, medical, or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses listed in Section 955.160 of this Part. (Section 25(a-1) of the Act)

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.190. Notification to Student, Applicant, or Employee**

The student, applicant, or employee must be notified of each of the following whenever a fingerprint-based criminal history records check is requested pursuant to the Act:

a. That the educational entity, health care employer or long-term care facility shall initiate a fingerprint-based criminal history records check requested by the Department of Public Health of the student, applicant, or employee pursuant to this Part. (Section 33(k) of the Act)

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.270. Department Review of Waiver Application**

a. The Department will consider an application for a waiver from individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix C of this Part upon receipt of a complete application and the results of a fingerprint-based criminal history records check in accordance with Sections 955.115 and 955.165 of this Part.

c. The Department may grant a waiver based on the following information provided by the applicant or employee and the results of the fingerprint-based criminal history records check.

1. The age of the applicant or employee at the time of the offense (Section 40(a) of the Act);
2. A written explanation of each conviction to include what happened, how many years have passed since the offense, the individuals involved, and any other circumstances surrounding the offense (Section 40(a) of the Act);
3. The applicant's work history;

4. The applicant or employee's criminal history since the disqualifying conviction, to include the results of the Illinois criminal history records report, convictions in other states, and federal convictions;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.275. Rehabilitation Waiver**

a. The Department may consider the results of a fingerprint-based criminal history records check for a rehabilitation waiver, if sufficient time has passed since the last disqualifying conviction. A rehabilitation waiver may be granted without a waiver application being submitted by the student, applicant, or employee.

b. For an applicant to be considered for a rehabilitation waiver, the Department must have received from him or her a criminal history records check that meets the requirements of Sections 955.115 and 955.165 of this Part.

c. A waiver without a waiver application shall not be granted unless the student, applicant, or employee has met the following time frames:

1. Single disqualifying misdemeanor conviction – 5 years after conviction date;
2. Two disqualifying misdemeanor convictions – 7 years after conviction date;
3. Three or more disqualifying misdemeanor convictions – 9 years after conviction date;
4. Single disqualifying felony conviction – 7 years after conviction date;
5. Two disqualifying felony convictions – 9 years after conviction date; and
6. Three or more felony convictions shall not be considered for a rehabilitation waiver.

d. A waiver without a waiver application may be granted to an individual who has been convicted of committing or attempting to commit one or more of the offenses listed in Appendix B of this Part, if the time frames listed in subsection (c) have been met.

e. Upon receipt of the results of a criminal history records check that meets the requirements set forth in Sections 955.115 and 955.165 of this Part, the Department will review the convictions reported to determine whether the convictions are disqualifying in accordance with Section 25 of the Act and Section 955.160 of this Part and whether the circumstances of the convictions meet the criteria set forth in this Section. The Department will grant a rehabilitation waiver to the applicant if: the criteria of this Section are met and no additional information is needed to verify completion of parole (i.e., probation or mandatory supervised release) or payment of fines or restitutions; the Health Care Worker Registry does not show any administrative findings of abuse, neglect or misappropriation of property; and the applicant or employee has no other disqualifying convictions.

f. In cases where a rehabilitation waiver is granted, a letter shall be sent to the applicant notifying the applicant that he or she has received a rehabilitation waiver. (Section 40(c) of the Act) The waiver will be recorded in the Health Care Worker Registry. If a rehabilitation waiver is not granted, the individual may apply for a waiver by submitting a completed waiver application pursuant to Section 955.260 of this Part.

**Restriction Type:** Discretionary

**Restriction Duration:** Review the various duration listed above

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.280.  
Employment Pending Waiver**

*An individual shall not be employed in direct care or employed in a long-term care facility in a position that involves or may involve contact with the residents or access to the resident's living quarters or the financial, medical or personal records of the residents from the time that the employer receives a notification from the Department of Public Health based upon the results of a fingerprint-based criminal history records check containing disqualifying conditions until the time that the individual receives a waiver from the Department. (Section 40(d) of the Act)*

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.285.  
Livescan Vendors**

b. Any livescan vendor meeting the requirements of this Section may individually enter into a standardized contract with the Department. A livescan vendor contracted to provide livescan non-criminal fingerprinting services, in a format consistent with a fee applicant inquiry, shall meet the following requirements:

8. Only livescan technicians who have had a fingerprint-based criminal history records check and no disqualifying convictions as listed in Section 25 of the Act and Section 955.160 of this Part may collect fingerprints and transmit the data files electronically to a vendor.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 965, Section 965. Appx. A  
Health Care Professional Credentialing and Business Data Gathering Form  
CRIMINAL ACTIONS**

If you answer "yes" to any questions in this section, please complete FORM D. Please make copies of FORM D, if needed, and complete one for each "yes" answer

1. Have you been charged with or convicted of a crime (other than a minor traffic offense) in this or any other state or country and/or do you have any criminal charges pending other than minor traffic offenses in this State or any other state or country?

**(Structural Pest Control)**

**225 ILCS 235/13**

**(Violations of the Act)**

It is a violation of this Act and the Department may suspend, revoke, or refuse to issue or renew any certificate, registration, or license, in accordance with Section 14 of this Act, upon proof of any of the following:

(b) Conviction of a certified technician, registrant, or licensee of a violation of any provision of this Act or of pest control laws in any other state, or any other laws or rules and regulations adopted thereto relating to pesticides.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

### **(Water Well and Pump Installation Contractor's License)**

#### **225 ILCS 345/15 (Refusal, suspension or revocation of license; grounds)**

The Department may refuse to issue or renew, may suspend or may revoke a license on any one or more of the following grounds:

(7) Conviction of any crime an essential element of which is misstatement, fraud or dishonesty, conviction in this or another State of any crime which is a felony under the laws of this State or the conviction in a federal court of any felony.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

#### **Administrative Code: Title 68, Chapter IV, Part 750, Sub part I, Section 750.910. Certified Plumbing Inspector Violations (Food Service Sanitation)**

The Department may take disciplinary action against a certified plumbing inspector for violations of the Act, this Part or the Illinois Plumbing Code. Pursuant to Section 20 of the Act, such action may include revocation, suspension, or denial of a plumbing license or plumbing inspector's certificate issued by the Department; and under Section 5(b.10) of the Act may include an Order of Correction to a telecommunications carrier for improper advertising. A violation, for the purposes of this Section, shall be considered to mean a finding of violation of a Section of the Act, or this Part, or the Illinois Plumbing Code by the Director in a final order issued pursuant to the Act and shall include the following acts:

g) being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the practice of plumbing

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Professional and Occupations**

#### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 225, Sub part A, Section 225.400. Application for and Issuance of a Licensure to Operate an Alzheimer's Disease Management Center Model**

a) Applications for a license to operate an Alzheimer's Disease Management Center Model shall be in writing on forms provided by the Department. The application shall be made under oath and shall contain the following:

8) Information regarding any conviction of the owner or operator of the proposed Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code



**Administrative Code: Title 77, Chapter I, Sub chapter c, Part 225, Sub part A, Section 225.800. Adverse Licensure Action**

b) A license may be denied, suspended, or revoked, or the renewal of a license may be denied or administrative fine assessed, for any of the following reasons:

2) Conviction of the owner or operator of the Alzheimer's Disease Management Center Model of a felony or of any other crime under the laws of any state or of the United States arising out of or in connection with the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter c, Part 225, Sub part C, Section 225.2020 Nursing Assistants**

b) The facility shall ensure that each nursing assistant is included on the Nurse Aide Registry as having met training or equivalency requirements and not having a disqualifying criminal conviction.

c) Each person employed by the facility as a nursing assistant shall meet each of the following requirements:

1) Be at least 18 years of age, of good moral character, honest, reliable, and trustworthy

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Home Health, Home Services, and Home Nursing Agency Code**

**Administrative Code: Title 77, Chapter I, Sub chapter b, Part 245, Sub part C, Section 245.130. Adverse Licensure Action**

b) Adverse licensure action shall be considered by the Department under the following conditions:

2) Satisfactory evidence that the moral character of the applicant or supervisor of the agency is not reputable. In determining moral character, the Department may take into consideration any convictions of the applicant or supervisor for criminal offenses, but such convictions shall not operate as a bar to licensing.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter b, Part 245, Sub part D, Section 245.212 Nursing Placement Agency**

d) The placement agency shall require and document that:

1) An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Children's Community-Based Health Care Center Code**

### **Administrative Code: Title 77, Chapter I, Sub chapter b, Part 260, Section 260.1600 Adverse Licensure Action**

b) A license may be denied, suspended, or revoked, or the renewal of a license may be denied or an administrative fine assessed, for any of the following reasons:

2) Conviction of the owner or operator of the Children's Respite Care Center Model of a felony or of any other crime under the laws of any state or of the United States arising out of, or in connection with, the operation of a health care facility. The record of conviction or a certified copy of it shall be conclusive evidence of conviction

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Skilled Nursing and Intermediate Care Facility Code**

### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 300, Sub part A, Section 300.165 Criteria for Adverse Licensure Actions**

2) Conviction of the licensee, or of the person designated to manage or supervise the facility, of any of the following crimes during the previous five years. Such convictions shall be verified by a certified copy of the record of the court of conviction:

A) A felony; or

B) Two or more misdemeanors involving moral turpitude. (Section 3-119(a)(2) of the Act)

3) The moral character of the licensee, administrator, manager, or supervisor of the facility is not reputable. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff.

**Restriction Type:** Mandatory

**Restriction Duration:** During the previous five years

### **Administrative Code: Title 77, Chapter I, Sub chapter c, Part 300, Sub part A, Section 300.170 Denial of Initial Licensure**

a) A determination by the Director or his or her designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 300.165 or the following criteria are met:

1) Conviction of the applicant, or if the applicant is a firm, partnership or association, or any of its members or if a corporation, the conviction of the corporation or any of its officers and stockholders, or of the person designated to manage or supervise the facility of any of the following crimes during the previous 5 years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony; or

B) Two or more misdemeanors involving moral turpitude. (Section 3-117(2) of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77 Chapter I, Sub chapter c, Part 300, Sub part C, Section 300.625. Identified Offenders**

a) The facility shall review the results of the criminal history background checks immediately upon receipt of these checks.

b) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Identified Offender Report and Recommendation is pending.

**Sheltered Care Facilities Code**

**Administrative Code: Title 77 Chapter I, Sub chapter c, Part 330, Sub part A, Section 330.165. Criteria for Adverse Licensure Actions**

b) A determination by the Director or his or her designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

2) Conviction of the licensee, or of the person designated to manage or supervise the facility, of any of the following crimes during the previous five years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony; or

B) Two or more misdemeanors involving moral turpitude. (Section 3-119(a)(2) of the Act)

3) The moral character of the licensee, administrator, manager, or supervisor of the facility is not reputable. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff.

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous five years

**Administrative Code: Title 77 Chapter I, Sub chapter c, Part 330, Sub part A, Section 330.170. Denial of Initial Licensure**

a) A determination by the Director or his or her designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 330.165 or the following criteria are met:

1) Conviction of the applicant, or if the applicant is a firm, partnership or association, or any of its members or if a corporation, the conviction of the corporation or any of its officers and stockholders, or of the person designated to manage or supervise the facility of any of the following crimes during the previous 5 years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony; or

B) Two or more misdemeanors involving moral turpitude. (Section 3-117(2) of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77 Chapter I, Sub chapter c, Part 330, Sub part A, Section 330.725 Identified Offenders**

b) The facility shall be responsible for taking all steps necessary to ensure the safety of residents while the results of a name-based background check or a fingerprint-based check are pending; while the results of a request for a waiver of a fingerprint-based check are pending; and/or while the Identified Offender Report and Recommendation is pending.

**Restriction Type:** Mandatory

**Long-term Care for Under Age 22 Facilities Code**

**Administrative Code: Title 77, Chapter I, Sub chapter c, Part 390, Sub part A. Section 390.165. Criteria for Adverse Licensure Actions**

b. A determination by the Director or his designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

2. The licensee or applicant, or the person designated to manage or supervise the facility has been convicted of any of the following crimes during the previous five years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony.

B) Two or more misdemeanors involving turpitude. (Sections 3-117(2) and 3-119(a)(2) of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** During the previous five years.

**Administrative Code: Title 77, Chapter I, Sub chapter c, Part 390, Sub part A. Section 390.170. Denial of Initial Licensure**

a. A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 390.165 or the following criteria are met.

1) The applicant, any member of the firm, partnership, or association which is the applicant, any officer or stockholder of the corporation which is the applicant, or the person designated to manage or supervise the facility has been convicted of any of the following crimes during the previous five years. Such convictions shall be verified by a certified copy of the record of the court of conviction.

A) A felony.

B) Two or more misdemeanors involving moral turpitude. (Section 3-117(2) of the Act)  
**Restriction Type:** Discretionary  
**Restriction Duration:** During the previous five years.

### **Illinois Clinical Laboratories Code**

**Administrative Code: Title 77, Chapter I, Sub chapter d, Part 450, Sub part A, Section 450.40. Penalties and Fines**

a. The Department may deny, revoke, or refuse to renew a license or permit for the reasons set forth in Article VIII of the Act. All hearings and appeals shall be conducted in accordance with the procedures set forth in that Article and this Part. Any person holding 5% or more of the ownership in a clinical laboratory who was convicted of violation of Section 8-101(b), (c) or (g) of the Act, shall constitute grounds for denial or revocation of license or permit.

**Restriction type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Illinois Blood Bank Code**

**Administrative Code: Title 77, Chapter I, Sub chapter d, Part 490, Sub part A, Section 490.20. Application and Licensure**

f. Licenses may be revoked for the causes set forth in Article IV and Article VIII of the Act. All hearings and appeals shall be conducted in accordance with the procedures set forth in Article VIII of the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100). Any person holding 5% or more of the ownership in a blood bank and was convicted or violated Section 8-101 of the Act, shall constitute grounds for denial or revocation of a license.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **WIC Vendor Management Code**

**Administrative Code: Title 77, Chapter X, Sub chapter i, Part 672, Sub part B, Section 672.205. Application Procedures**

An Applicant can apply for Authorization to become a WIC Retail Vendor by submitting the following to the Department:

e. Each owner, partner, limited partner, or shareholder of 5% or more of any stock shall also provide a statement concerning any conviction for a misdemeanor involving fraud, theft, or misuse of state or federal funds or any felony.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter X, Sub chapter I, Part 672, Sub part E, Section 672.505. Federally Mandated Vendor Sanctions**

a. Vendors shall receive the following sanctions for the following violations as mandated by 7 CFR 246.12:

a. Permanent disqualification:

- 1) The Department shall permanently disqualify a Vendor convicted of:
  - A. trafficking in food instruments; or
  - B. selling firearms, ammunition, explosives, or controlled substances (as defined in section 802 of the Controlled Substances Act (21 USC 802), in exchange for Food Instruments.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Hearing Instrument Consumer Protection Code**

#### **225 ILCS 50/8 (Applicant qualifications; examination)**

(b) Applicants shall be:

(2) Of good moral character;

Felony convictions of the applicant and findings against the applicant involving matters set forth in Sections 17 and 18 shall be considered in determining moral character, but such a conviction or finding shall not make an applicant ineligible to register for examination.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

#### **225 ILCS 50/18 (Discipline by the Department)**

The Department may refuse to issue or renew a license or it may revoke, suspend, place on probation, censure, fine, or reprimand a licensee for any of the following:

(c) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or misdemeanor, an essential element of dishonesty, of any crime which is directly related to the practice of the professions.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

#### **Administrative Code: Title 77, Chapter IV, Sub chapter j, Part 682, Sub part F, Section 682.610. Disciplinary Action**

Disciplinary actions by the Department shall be in the following order of severity: letter of reprimand, probation, suspension of license, denial of license or revocation of license. The severity of the disciplinary action shall be determined by the number of violations which have occurred; previous disciplinary actions which have been taken against a licensed Hearing Instrument Dispenser; conviction of the licensed Hearing Instrument Dispenser, for felonies or misdemeanors involving fraud or dishonesty, especially those convictions which are related to Hearing Instrument dispensing; the effect of the violation on a consumer versus a non-consumer related violation; and the licensed Hearing Instrument Dispenser's degree of cooperation in resolving a complaint which is a violation. The Department, with the approval of the Board, may impose a fine not to exceed \$1000 plus costs for the first violation and not to exceed \$5000 plus costs for each subsequent violation of this Act, and the rules promulgated hereunder, on any person or entity described in this Act. Such fine may be imposed as an alternative to any other

disciplinary measure, except for probation. The imposition by the Department of a fine for any violation does not bar the violation from being alleged in subsequent disciplinary proceedings. Such fine shall be deposited in the Fund. (Section 18 of the Act)

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter IV, Sub chapter j, Part 682, Sub part F, Section 682.620. Restoration of Revoked or Suspended Hearing Instrument Dispenser Licenses**

Persons whose Hearing Instrument Dispenser Licenses have been suspended or revoked may petition the Board for restoration of the license.

b. The applicant shall affirm, by signature and date, that during the period that the Hearing Instrument License was revoked or suspended, the applicant has not pleaded nolo contendere or been convicted of a felony or misdemeanor under the laws of the United States, any state or territory; been disciplined by another governmental or professional association for actions which involve fraud or dishonesty; is not subject to any currently effective injunctive or restrictive order as a result of the aforementioned actions; and has not engaged in Hearing Instrument dispensing activities as described in Section 5 and Section 3(j) of the Act.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Tanning Facilities Code**

**Administrative Code: Title 77, Chapter I, Part 795, Section 795.130. Denial, Suspension, Revocation or Non-Renewal of a Permit to Operate a Tanning Facility**

The Department may deny, suspend, revoke or refuse to renew a permit to operate a tanning facility sought or issued pursuant to this Part for any of the following reasons

h. conviction of an applicant or permit holder of an offense arising from false, fraudulent, deceptive, or misleading advertising (The record of conviction or a certified copy of such record shall be conclusive evidence of the conviction)

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Body Art Code**

**Administrative Code: Title 77, Chapter I, Sub chapter m, Part 797, Section 797.1600. Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration (Body Art)**

A certificate of registration may be denied, suspended, or revoked, or the renewal of a certificate of registration may be denied, for any of the following reasons:

b. Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Alcoholism and Substance Abuse Treatment and Intervention Licenses**

**Administrative Code: Title 77, Chapter X, Sub chapter d, Part 2060, Sub part C, Section 2060.313. Personnel Requirements and Procedures  
(Alcoholism and Substance Abuse Treatment Intervention Licenses)**

a. All professional staff:

2. Cannot have been convicted of any felony or had any subsequent incarceration for at least two years prior to the date of employment.

**Restriction Type:** Mandatory

**Restriction Duration:** At least two years prior to the date of employment

## **Illinois Controlled Substances Act**

**Administrative Code: Title 77, Chapter XV, Part 3100, Section 3100.350. Other Security Controls for Practitioners (Illinois Controlled Substance Act)**

a. The registrant shall not employ as an agent or employee who has access to controlled substances any person who has had an application for registration denied, or has had his registration suspended or revoked, or has surrendered his federal or state controlled substances registration or has been convicted of a violation of state or federal law relative to the manufacture, distribution, dispensing or possession of controlled substances.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Employment contracting restrictions based on criminal history:**

**Administrative Code: Title 77, Chapter I, Sub chapter p, Part 855, Sub part B, Section 855.110. Contractor Licensing**

g. Suspension or Revocation of License/Denial of Application. The Department shall provide written notice, via certified mail, of its decision to deny, suspend or revoke a contractor's license. The applicant or licensee shall have 15 days to make a written request for an administrative hearing to contest the Department's decision. The Department's decision to suspend or revoke a license or deny an application shall be based upon any of the reasons provided in subsections (g)(1) through (g)(5) below:

1) Conviction, of a felony or two or more misdemeanors involving fraudulent activities, or of violations of laws relating to construction or the building trades in general, in the last five years:

A. of the contractor; or

B. if the contractor is a firm, partnership, or association, of any of its members; or

C. if a corporation, of any of its officers or directors; or

D. of any person designated to manage or supervise the asbestos abatement activities.

**Restriction Type:** Discretionary

**Restriction Duration:** In the last five years



**Administrative Code: Title 77, Chapter I, Sub chapter, Part 855, Sub part B, Section 855.120. Training Course Approval and Accreditation**

q. If the Department finds that a training course provider or instructor is not in compliance with this Part, the Department may suspend, revoke, or deny accreditation of a course. The Department shall provide written notice of its decision. The training course provider shall have 15 days to make a written request for an administrative hearing to contest the Department's decision. In addition, the Department may deny or revoke course accreditation or instructor approval for the following or similar reasons:

3. Conviction of a violation of the Consumer Fraud and Deceptive Business Practice Act [815 ILCS 505].

4. Conviction of a violation of any provisions of training course laws in any other state, or any laws or rules relating to asbestos training courses.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter r, Part 894, Section 894.60. Registered Plumbing Contractor Violations**

b. A violation, for the purposes of this Section, shall be considered to mean a finding of violation of a Section of the Act, or this Part, or the Illinois Plumbing Code by the Director in a final order issued pursuant to the Act and shall include the following acts:

7. being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the practice of plumbing;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 77, Chapter I, Sub chapter u, Part 955, Section 955.135. Contracted or Subcontracted Workers**

a. Any unlicensed contracted or subcontracted worker shall undergo a fingerprint-based criminal history records check through the processes established in the Act and this Part.

c. If a staffing agency is unable to have access to the fingerprint process established through the Act, the health care employer may initiate the fingerprint-based criminal history records check for the staffing agency. The health care employer may require the staffing agency to reimburse the health care employer for any fingerprint-based criminal history records check expenses incurred.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Summary of Employment Restrictions from Agency Report:**

Certified Nurse Assistants: subject to restrictions in the Healthcare Worker Background Check Act (225 ILCS 46). Illinois State Police sends rap sheets to IDPH, each sheet with a hit determined by a staff member based on the Disqualifying Offense sheet. For 2010-2012, 238,131 individuals underwent checks, 2905 sought waiver (2285 were granted).

Division of EMS Response: subject to restrictions in 210 ILCS 50, the EMS Systems Act, EMS Act, and Trauma Center Code. Individuals with a criminal history, particularly with felony convictions, are evaluated on a case-by-case basis to determine if the individual poses a risk to patients. Since 2010, two individuals have been disqualified based on criminal history disclosure. After September 2012, all individuals renewing their license must disclose any felony convictions.

# DEPARTMENT OF REVENUE

## Government Services/Executive Agency

FY14 Headcount: 1,841

<http://www.revenue.state.il.us/#&panel1-1>

### **Summary of Agency Operations**

The Illinois Department of Revenue (DOR) serves as the tax collection agency for the state and for local governments. The department also regulates the manufacturing, distribution and sale of alcoholic beverages through the Liquor Control Commission, oversees local property tax assessments, administers grant program payments for local officials, and functions as the fiscal agent for the Illinois Housing Development Authority (IHDA).

### **Internal Hiring**

#### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

All employees, contractual persons or persons from other state agencies who are seeking identification badge authorizing admittance into IDOR facilities will have a criminal background check completed before they are hired and or given identifications badges.

Investigators having powers of peace officers

#### **Statutory, regulatory, restrictions applicable to internal hiring**

**Civil Administrative Code of Illinois. (Department of Revenue Law) [20 ILCS 2505/2505-305] Investigators.** (a) The Department has the power to appoint investigators to conduct all investigations, searches, seizures, arrests, and other duties imposed under the provisions of any law administered by the Department. Except as provided in subsection (c), these investigators have and may exercise all the **powers of peace officers** solely for the purpose of enforcing taxing measures administered by the Department.

See Law Enforcement Training and Standards Board Fact Sheet for restrictions applicable to peace officers.

#### **Agency policy restrictions applicable to internal hiring**

Access into DOR facilities requires an identification badge issued only after a criminal history check has been completed. Internal review determines disqualifying offenses, per agency's report to the Task Force.

**Restriction Type:** Discretionary

**Restriction Duration:** Individualized assessment

#### **System of personnel administration**

**Personnel Code [20 ILCS 415]**

**Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

### **Criminal history record check procedures**

#### **8) Self-disclosure on application**

Yes

#### **9) Background check review procedure**

Once the background check has been completed (source of criminal history information was not specified in agency's report to the Task Force), one of the following possibilities would exist.

1. The background check is clear and no further action is required.
2. The applicant failed to include a conviction, including any guilty pleas where the individual received some sort of alternative sentencing, including court supervision. If this occurs the application would be falsified, meaning the application would initially be denied. A letter would be sent to the applicant advising them and giving them the opportunity to contact the Internal Affairs Office of IDOR and request to have the matter reviewed. In many cases the conviction is old and or of a minor nature and the applicant simply forgot to include it, or didn't believe the conviction was on their record.
3. The background check revealed a conviction giving concern as to the applicant's viability. Some examples would include identity theft, gambling, fraud, deceptive practice or any violent crimes. The application would be reviewed and a decision rendered as to the viability of the applicant. Various factors are weighed, such as the time elapsed between the application and when the conviction took place.

It should also be noted that in addition to the criminal background checks completed on all applicants, a tax check is completed as well. If and when an application reveals a tax issue, the applicant is sent a letter indicating same and if the applicant corrects the problem the application will be approved.

### **Exemption, waiver, or review mechanisms**

If the applicant requests the matter be reviewed, a committee made up of the Chief of the Internal Affairs Division, the EEO Officer, an Assistant General Counsel and a member of the Shared Services Unit, will meet and make a determination if the application will go forward or be denied.

### **Number of job applicants who were subject to a criminal history records check between July 2009 and January 2012:**

Total Applications received/processed = 4,613

Total Applications Cleared/Approved = 3,292

Total number of Applicants denied = 1,368 (includes 875 for tax related issues)

Total number of Applications reviewed = 493.

## **Occupational Licensing, Certification, Regulation**

**Occupational licenses issued by agency that are subject to criminal history restrictions**  
Cigarette distributor; Bingo license; License for fund-raising games of chance; Manufacturer's license for pull-tab and jar games

### **Cigarette Tax Act [35 ILCS 130/4] (Distributor's License)**

The following are ineligible to receive a distributor's license under this Act: 1) a person who is not of good character and reputation in the community in which he resides; 2) **a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust.**

**Restriction type:** Discretionary

**Restriction duration:** Sufficient time to be deemed rehabilitated

### **Cigarette Use Tax Act [35 ILCS 135/4] (Distributor's License)**

The following are ineligible to receive a distributor's license under this Act: 1) a person who is not of good character and reputation in the community in which he resides; 2) a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;

**Restriction type:** Discretionary

**Restriction duration:** Sufficient time to be deemed rehabilitated

### **Cigarette Use Tax Act [35 ILCS 135/7] (Distributor's Permits)**

The following are ineligible to receive a distributor's license under this Act: 1) a person who is not of good character and reputation in the community in which he resides; 2) a person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;

**Restriction type:** Discretionary

**Restriction duration:** Sufficient time to be deemed rehabilitated

### **Administrative Code: Title 86, Chapter I, Part 440, Section 440.50. Cigarette Tax Stamps— When and by Whom Affixed: License or Permit Required**

f. The following are ineligible to receive a [cigarette] distributor's license or permit under this Act:  
1) A person who is not of good character and reputation in the community in which he resides;  
2) A person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;

**Restriction type:** Discretionary

**Restriction duration:** Sufficient time to be deemed rehabilitated

**Bingo License and Tax Act [230 ILCS 25/1.2] (Ineligibility for Bingo licensure)**

The following are ineligible for any [Bingo] license under this Act: 1) any person who has been convicted of a felony within the last 10 years prior to the date of the application. 2) Any person who has been convicted of a violation of Article 28 (Gambling and related acts) of the Criminal Code of 1961 or the Criminal Code of 2012.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Administrative Code: Title 86, Chapter I, Part 430, Section 430.150. Ineligibility for [Bingo] License.** a. The following are ineligible for any license under the Act: 1) Any person who has been convicted of a felony; 2) Any person who has been convicted of a violation of Article 28 (Gambling and related acts) of the "Criminal Code of 1961" or the Criminal Code of 2012.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Charitable Games Act [230 ILCS 30/7] License for fund-raising games of chance**

Sec. 7. Ineligible Persons. The following are ineligible for any license under this Act: (a) any person who has been **convicted of a felony within the last 10 years before the date of the application**; (b) **any person who has been convicted of a violation of Article 28 (Gambling) of the Criminal Code of 1961 or the Criminal Code of 2012**

**Restriction Type:** Mandatory

**Restriction Duration:** 10 years prior to the application date

**Administrative Code: Title 86, Chapter I, Part 432, Section 432.130. Manufacturer's License for pull-tab and jar games**

4. The application form shall include the following information: k. Has the applicant or any officer, director, partner, or employee of the applicant **been convicted of a felony within the last 10 years, or convicted of a violation of Article 28 (gambling) of the Criminal Code of 1961?**

**Restriction Type:** Mandatory

**Restriction Duration:** 10 years prior to the application date

**Occupational Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

All employees, contractual persons or persons from other state agencies who are seeking identification badge authorizing admittance into Illinois Department of Revenue (IDOR) facilities will have a criminal background check completed before they are hired and or given identifications badges, per the IDR-147 application, due to the confidential nature of the work IDOR performs and the integrity of the Illinois Liquor Control Commission within the IDOR. A review of any criminal history is performed.

If an application is initially denied, If the applicant requests the matter be reviewed, a committee made up of the Chief of the Internal Affairs Division, the EEO Officer, an Assistant General Counsel and a member of the Shared Services Unit, will meet and make a determination if the application will go forward or be denied. Conviction giving concern as to the applicant's viability would include identity theft, gambling, fraud, deceptive practice or any violent crimes.

As in the situation above, the application would be reviewed and a decision rendered as to the viability of the applicant. Various factors are weighed, such as the time elapsed between the application and when the conviction took place.

Between July of 2009 and January 2012:

Total Applications received/processed = 4,613

Total Applications Cleared/Approved = 3,292

Total number of Applicants denied = 1, 368 (includes 875 for tax related issues)

Total number of Applications reviewed = 493

# DEPARTMENT OF TRANSPORTATION

Economic Development and Infrastructure Agency/Executive Agency

FY14 Headcount: 5,350

<http://www.dot.state.il.us/>

## **Summary of Agency Operations**

The Illinois Department of Transportation (IDOT) works to improve the safety, mobility and efficiency of Illinois' intermodal transportation network by constructing and maintaining roads, transit systems, high speed rail, airports, bike paths and walkways. Active engagement in diversity recruiting, sustainable environmental practices and technology advancements are just a few of the many ways IDOT will enhance agency operations into the future. IDOT's investments have resulted in hundreds of thousands of jobs created throughout Illinois.

## **Internal Hiring**

**Agency positions subject to restrictions based on criminal history**

**This agency is subject to personnel or non-personnel code.**

Personnel code agency

**Statutory Restrictions Applicable to Internal Hiring:**

None

**Administrative Code: Title 44, Sub title B, Chapter IX, Part 650, Sub part A, Section 650.110. Denial or Revocation of Ratings**

a. Prequalification ratings will be denied, or previously issued ratings will be revoked, in the event the Department finds the applicant or contractor to be nonresponsible. Reasons or events for a finding of nonresponsibility include but are not limited to the following. The Department shall be notified by the applicant or prequalified contractor of any information known to them which is relevant to any of the following reasons:

15. The applicant has been convicted for the violation of any State or federal law having relevance to the integrity and reliability of the applicant.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes

**(2) Background check review procedure**

CMS completes all background checks through the ISP prior to employment with IDOT.

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

Not mentioned in the agency report



## **AGENCY occupational licensing restrictions based on criminal history:**

### **Administrative Code: Title 92, Chapter I, Subchapter f, Part 554, Sub part C, Section 554.311. Subsequent permits following a violation**

The permit to continue a move following a violation will be withheld until:

c. Following a conviction for a third offense within a one year period, the Department shall not issue permits to the person, firm, or corporation for a period of one year after the date of the conviction for such third offense [625 ILCS 5/15-301(j)].

**Restriction Type:** Mandatory

**Restriction Duration:** Following a conviction for a third offense within a one year period

### **605 ILCS 130/35 (Termination of the Public Private Agreement)**

The Department may terminate a public private agreement or interim agreement under Section 30 of this Act if the contractor or any executive employee of the contractor is found guilty of any criminal offense related to the conduct of its business or the regulation thereof in any jurisdiction. For purposes of this Section, an "executive employee" is the President, Chairman, Chief Executive Officer, or Chief Financial Officer; any employee with executive decision-making authority over the long-term or day-to-day affairs of the contractor; or any employee whose compensation or evaluation is determined in whole or in part by the award of the public private agreement. (Source: P.A. 96-913, eff. 6-9-10.)

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

### **Administrative Code: Title 92, Chapter I, Subchapter E, Part 448, Section 448.30. Application Procedure for Station Permit**

1) If one or more of the Official Testing Station owners or applicants have been convicted of a felony, the Department may consider that fact, along with others, as grounds for either revocation or denial of a Testing Station Permit. However, the fact of a conviction of a felony by one or more of the Official Testing Station owners or applicants, standing alone, is not grounds for either denial or revocation of a Testing Station Permit.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Employment contracting restrictions based on criminal history:**

### **605 ILCS 5/6-411.1 (Pecuniary Interest in Contracts)**

d. A contract for the procurement of public utility services by a road district with a public utility company is not barred by this Section by one or more members of the governing body being an officer or employee of the public utility company, holding an ownership interest of no more than 7 1/2% in the public utility company, or holding an ownership interest of any size if the road district has a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body having such an interest shall be deemed not to have a prohibited interest under this Section.

e. Any officer who violates this Section is guilty of a Class 4 felony. Any office held by the person so convicted shall become vacant and shall be declared vacant as part of the judgment of the court.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Summary of Employment Restrictions from Agency Report:**

CMS requests background checks, on behalf of IDOT, from ISP for all applicants for seasonal positions. Additionally, IDOT's Bureau of Personnel Management maintains a list of individuals not recommended for rehire, which is compiled of IDOT employees that have been discharged for cause.

IDOT does not keep data on the total number of background checks requested because CMS requests the checks on IDOT's behalf. Records indicate IDOT denied 78 snowbird applicants due to criminal background in the 2010-2011

# DEPARTMENT OF VETERAN AFFAIRS

## Human Services/Executive Agency

**FY14 Headcount: 1,493**

<http://www2.illinois.gov/veterans/Pages/default.aspx>

### **Summary of Agency Operations**

The Illinois Department of Veterans' Affairs (IDVA) empowers veterans, their dependents and their survivors to thrive by assisting them in obtaining federal and state benefits and resources; by providing long-term health care for eligible veterans; and by partnering with other agencies and non-profits to help veterans address education, mental health, housing, and employment challenges. IDVA's Central Office supports these programs, as well as the Illinois Warrior Assistance Program and the Veterans Cash grant program.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history by statute or regulation**

**Direct care occupations:** Licensed Practical Nurse I; Licensed Practical Nurse II; Physical Therapy Aide II - Direct Care; Registered Nurse I; Registered Nurse II; Veterans Nursing Assistant – Certified

#### **Agency positions subject to restrictions based on criminal history by agency policy**

Per agency's report submitted to the Task Force, there are 105 **non-direct care positions** which criminal history is not formally disqualifying, yet are subject to criminal background checks as a Department practice for consideration in the hiring process: Account Clerk I; Account Technician I;

Account Technician II; Accountant; Accountant Advanced; Accountant Supervisor; Activity Program Aide II; Activity Therapist; Administrative Assistant I; Administrative Assistant II; Apparel/Dry Goods Specialist III; Barber; Building/Grounds Lead I; Building/Grounds Maintenance Worker; Business Manager; Carpenter; Chaplain I; Chief Internal Auditor; Cook I; Cook II; Data Processing Operator; Dietary Manager I; Dietary Manager II; Dietitian; Electrician; Executive I; Executive II; Executive Secretary I; Executive Secretary II; Executive Secretary III; Health Information Administrator; Health Information Associate; Human Resources Assistant; Human Resources Associate; Human Resources Representative; Human Resources Specialist; Information Services Specialist I; Information Services Specialist II; Information Systems Analyst I; Information Systems Analyst II; Inhalation Therapist; Inhalation Therapy Supervisor; Laundry Manager I; Library Associate; Maintenance Equipment Operator; Maintenance Worker (Power Plant); Medical Administrator 1, Opt D; Office Administrator III; Office Administrator IV; Office Assistant; Office Associate; Office Clerk; Office Coordinator; Office Specialist; Painter; Pharmacist Lead Technician; Pharmacist Technician; Pharmacy Services Coordinator; Physical Therapy Aide II; Physical Therapy Aide III; Physician; Physician Specialist, Option A; Physician Specialist, Option B; Physician Specialist, Option B; Plumber;

Property and Supply Clerk III; Public Safety Inspector; Public Service Administrator; Radiologic Technologist Program Coordinator; Registered Nurse - Advanced Practice; Rehab Counselor; Rehab Counselor Aide II; Reimbursement Officer; Reimbursement Officer I; Reimbursement Officer II; Reproduction Service Supervisor I; Reproduction Service Technician I; Security Officer; Security Officer Chief; Security Officer Sergeant; Senior Public Service Administrator; Social Service Aide I; Social Service Aide II; Social Service Program Planner I; Social Service Program Planner II; Social Service Program Planner III; Social Worker II; Social Worker III; Staff Pharmacist; Stationary Engineer; Stationary Engineer Assistant Chief; Stationary Engineer Chief; Stationary Fireman; Steamfitter; Storekeeper I; Storekeeper II; Storekeeper III; Stores Clerk; Support Service Coordinator I; Support Service Lead; Support Service Worker; Switchboard Operator I; Switchboard Operator II; Veterans Educational Specialist III; Veterans Service Officer

**Administrative Rule 77 Ill. Adm. Code 340.1377 Illinois Veteran' Home Code**

Requires the Department's veterans' homes to comply with the Health Care Worker Background Check Act (225 ILCS 46) and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) for direct care positions.

**Statutory/regulatory restrictions applicable to internal hiring for direct care/ long-term facilities positions:**

**Health Care Workers Background Check Act [225 ILCS 46]**

See Department of Public Health Fact Sheet for an enumeration of disqualifying offenses

**Health Care Worker Background Check Code (77 Ill. Adm. Code 955)**

See Department of Public Health Fact Sheet for enumeration of disqualifying offenses

**System of personnel administration**

**Personnel Code [20 ILCS 415]**

**Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

**Criminal history record check procedures for direct-care positions:**

**1) Self-disclosure on application**

Yes, after a selected candidate is identified through the interview and selection process, applicant's information is submitted to the Illinois Department of Public Health (IDPH) through its *Health Care Worker Background Check Registry's Web Application*, per agency's report to the Task Force

**2) How criminal history is obtained:**

A finger-print based criminal background check is executed through IDPH *Health Care Worker Background Check Registry's Web Application*.

**3) In house review procedure:**

Illinois Department of Public Health (IDPH) makes the determination if the individual is disqualified.

**Criminal history record check procedures for non-direct-care positions:**

**3) Self-disclosure on application**

Yes (CMS 100)

**4) How criminal history is obtained:**

Name based Uniform Conviction Information Act (UCIA) criminal background checks are executed by the State Police for all new hires.

**In house review procedure:**

The criminal history is considered in the hiring process and the Department refers to the listing of *Disqualifying Convictions* maintained by the Illinois Department of Public Health; however, it has discretion in applying criminal background to non-direct care hiring decisions, per agency's report to the Task Force.

**Exemption, waiver, or review mechanisms for applicants**

Waivers sought through the Health Care Worker Background Check process are handled through the Department of Public Health. No waiver process mentioned in agency report for non-direct care positions.

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

28

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

All hires are subject to name-based criminal background checks. The Department considers criminal history in the hiring process but there is no policy specifying any disqualifying offenses.

Direct-care workers are subject to UCIA fingerprint checks and Illinois Department of Public Health (IDPH) Health Care Worker Registry Checks, registry checks with the Health and Human Services Office of Inspector General; Illinois Sex Offenders Registration; Illinois Department of Corrections Sex Registrant, Inmate Search, and Wanted Fugitives databases; and the National Sex Offender Public Registry.

See the Health Care Workers Background Check Act and Code, 225 ILCS 46 and 77 Ill. Admin. Code 955 § 955.160, respectively. See also the Illinois Veterans' Homes Code, 77 Ill. Admin. Code 340, specifically Section 1337: Health Care Workers Background Check.

In 2010 and 2011, 424 name-based checks were submitted to ISP. The Department does not track data regarding individuals disqualified based on criminal history disclosure or background checks. The Department also does not track individuals seeking waiver for background checks, as this is handled through the Illinois Department of Public Health.

# OFFICE OF MANAGEMENT AND BUDGET

## Government Services/Executive Agency

FY14 Headcount: 49

<http://www.state.il.us/budget/>

### **SUMMARY OF AGENCY OPERATIONS:**

The Governor's Office of Management and Budget (GOMB) prepares the governor's annual state budget and advises the governor on the availability of revenues and the allocation of resources to agency programs. GOMB works closely with agency directors and chief financial officers to continuously improve and streamline services at a lower cost. The office also plans and oversees capital programs of the state and issues bonds in support of the capital program and other needs.

### **Internal Hiring:**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

All applicants

#### **Authorization for restriction of applicants**

**c) Statutory restrictions applicable to internal hiring**

None

**d) Administrative rule restrictions applicable to internal hiring**

None

**e) Agency policy restrictions applicable to internal hiring**

Yes, it is the policy to conduct standard traffic, criminal and credit checks for new employees, per agency's report to the Task Force.

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

**3) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

**4) How criminal history is obtained**

Per agency's report to the Task Force, standard traffic, criminal and credit checks are conducted.

**5) In-house review procedure**

No derogatory information on candidates has been received back for review, per agency's report to the Task Force.

#### **Exemption, waiver, or review mechanisms for applicants**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

12

None disqualified

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

Standard traffic, criminal and credit checks are done for new employees at Governor's Office of Management and Budget (GOMB).

In the past two years 12 such checks have been performed, with none disqualified.



# GUARDIANSHIP AND ADVOCACY COMMISSION

## Human Services/Executive Agency

**FY14 Headcount: 107**

<http://gac.state.il.us/>

### **Summary of Agency Operations**

The Illinois Guardianship and Advocacy Commission (GAC) safeguards the rights of people with disabilities. Today, GAC carries out its mission through the implementation of three programs: the Human Rights Authority (HRA), which investigates complaints of rights violations for disabled individuals and children residing in institutional or in community care; the Legal Advocacy Service (LAS), which provides legal advice to people with disabilities when private legal counsel is unavailable; and the Office of State Guardian (OSG), which serves as the guardian of last resort for adults with disabilities.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

“Front-line” staff who serve as public guardians for incapacitated adults (statutory restrictions)  
All other Commission staff (agency policy)

#### **Statutory restrictions applicable to internal hiring**

##### **Probate Act of 1975 [755 ILCS 5/11/5(a)(5)]**

11a-5 Who may act as guardian. (5) **has not been convicted of a felony**, unless the court finds appointment of the person convicted of a felony to be in the disabled person’s best interest, and as part of the best interest determination, the court has considered the nature of the offense, the date of the offense, and the evidence of the proposed guardian’s rehabilitation. **No person shall be appointed who has been convicted of a felony involving harm or threat to an elderly or disabled person, including a felony sexual offense.**

**Restriction type:** Mandatory (discretionary when positions filled laterally by other State employees, per agency’s report to the Task Force)

**Restriction duration:** Not specified

#### **Commission policy regarding employee background checks (3.103)**

No disqualifying offenses enumerated.

### **System of personnel administration**

#### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **1) Self-disclosure on application**

Yes (CMS 100, Release of Information forms)

### **2) Background check review procedure**

UCIA fingerprint-based criminal history check is conducted by State Police. Per agency's report to the Task Force, criminal history results are reviewed by Chicago office and sent on the Springfield to be included in employee's permanent personnel file.

## **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

No data available, per agency's report to the Task Force

## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Illinois Guardianship and Advocacy Commission (IGAC) applicants are subject to a background check pursuant to the Probate Act of 1975, 755 ILCS 5/11a-5(a)(5), which outlines who may serve as a guardian for an incapacitated adult.

In practice, IGAC conducts very few background checks. Few IGAC hires are new hires, since most job postings are filled laterally with existing State employees already working at other agencies. In this hiring situation, the background check is waived.

# **ILLINOIS HISTORIC PRESERVATION AGENCY**

## **Economic Development and Infrastructure/Executive Agency**

**FY14 Headcount: 182**

<http://www.illinoishistory.gov/>

### **Summary of Agency Operations**

The Illinois Historic Preservation Agency (IHPA) operates 60 historic sites, including the Abraham Lincoln Presidential Library and Museum, which attract 2.2 million visitors and create an economic impact of more than \$185 million every year. IHPA programs identify and protect Illinois cultural and archaeological resources, and its tax incentive programs have sparked \$2.2 billion of private investment in historic rehabilitation projects since 2000.

### **Internal Hiring**

**Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

None

**Statutory, regulatory, agency policy restriction applicable to internal hiring**

None

### **System of personnel administration**

**Personnel Code [20 ILCS 415]**

**Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

### **Criminal history record check procedures**

#### **1) Self-disclosure on application**

Yes (CMS 100)

#### **2) How criminal history is obtained**

Per agency's report to the Task force, no background check conducted until after the applicant start their employment. At that time, 'CMS submits background checks to State Police every two weeks on new hires'.

#### **3) In-house review procedure**

Not specified in agency's report to the Task Force

### **Exemption, waiver, or review mechanisms for applicants**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to Task Force.

## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Illinois Historic Preservation Agency (IHPA) does not have any specific employment restrictions based on criminal history.

IHPA requires applicants to complete a CMS 100 Employment Application in which the applicant must disclose whether or not he/she has “ever pled guilty to or ever been convicted of any criminal offense other than a minor traffic violation”.

IHPA does not perform/request background checks prior to start date. CMS submits background checks for new hires every two weeks to the Illinois State Police after applicant’s start date.

For calendar year 2010 and 1022, no applicant has been disqualified or denied employment based on a background check.

# **ILLINOIS ARTS COUNCIL**

## **Economic Development and Infrastructure/Executive Agency**

**FY14 Headcount: 17**

<http://www.arts.illinois.gov/>

### **SUMMARY OF AGENCY OPERATIONS:**

The Illinois Arts Council (IAC) provides technical and financial assistance to artists, arts organizations, schools, units of government and other arts providers. Each year, IAC grantees generate a workforce of more than 120,000 people. IAC initiatives promote economic growth through community and downtown revitalization projects and support after-school programs for at-risk youth. An expanded focus for IAC is to enhance fundraising, outreach and management capacities for organizations and artists.

### **Internal Hiring:**

**Agency positions subject to restrictions based on criminal history, by statute, regulation, or agency policy**

#### **Agency policy:**

3 SPSA's, Option 1 – Executive Director, Deputy Director and Chief of Staff

2 PSA's Option 1 – Director of Programs and Director of Administration

1 PSA, Option 2 – Chief Fiscal Officer

1 Private Secretary 2

5 Arts Council Program Coordinators – Directors of: Arts-in-Education; Arts tour, Performing Arts & Partners in Excellence; Community Arts Development: Ethnic and Folk Arts, Literature & Presenters; Visual Arts, Media Arts, & Multi-Disciplinary Arts.

1 Arts Council Program Representative – Arts and Foreign Language

1 Accountant Supervisor

1 Accountant

1 Office Associate

**This agency is subject to personnel or non-personnel code.**

Personnel code agency

### **Statutory Restrictions Applicable to Internal Hiring:**

It has been a practice with the Illinois Arts Council (IAC) to submit the required "Request for Release of Information Form" to the Department of Central Management Services Personnel Division before the applicant is hired. In the CMS Transaction Manual under Attachments Required D. CMS-284 – Request for Release of Information:

"Required for all newly appointed employees. A newly appointed employee is interpreted to be an individual who has never been employed under this Merit System or any individual who may have been previously employed under this Merit System but has had more than a four day break in service and, therefore, begins with a new Continuous Service Date. Original CMS-284 is submitted with the appointment documents and a record of each new appointment is forwarded by Central Management

Services to the Department of State Police. The Departments of Corrections, Children and Family Services, Professional Regulation, Revenue and State Police are exempt from this requirement due to their statutory authorization to receive confidential information. If the employee refuses to complete and/or sign the CMS-284 shall have no adverse impact upon employment consideration and appointment.”

#### **Year restriction was adopted**

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

##### **(2) background check review procedure**

Applicant discloses on CMS100 Employment Application and fills out Request for Release of Information form prior to being hired. The Illinois State Police conduct a background check. There is no procedure however; Executive Director will use his discretion.

#### **Exemption, waiver, or review mechanisms**

N/A.

#### **Total number of people who underwent a background check**

In 2010-2012, the total number of people currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks or restrictions were 4: 3 Temporary Appointments and 1 Permanent Employee. 4 individuals (or 23%) underwent a criminal history background check. None were merely required to disclose criminal history without a criminal background check. None were disqualified and none sought an exemption or waiver

#### **AGENCY occupational licensing restrictions based on criminal history:**

#### **Employment contracting restrictions**

##### **Based on criminal history:**

N/A

#### **SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

Applicants disclose any criminal history on the CMS100 Employment Application and are subject to the CMS-284 Request for Release of Information form, but if the employee refuses to complete and/or sign the form it shall have no adverse impact upon employment consideration and appointment. The Illinois State Police conduct the background check. Deeming an applicant disqualified for employment is at the discretion of the Executive Director.

In the past two years, four applicants underwent a criminal history background check. None were deemed disqualified and none sought waiver.

# ILLINOIS BOARD OF HIGHER EDUCATION

Education Agency

FY14 Headcount: 39

<http://www.ibhe.org/>

## **Summary of Agency Operations**

The Board of Higher Education approves all new units of instruction, research, and public service, as well as new academic administrative units, for public colleges and universities in the state. The Board also undertakes periodic review of all existing units of instruction, research, and public service to advise the appropriate governing board whether such programs continue to be educationally and economically justified. Both of these activities are initiated at the campus or institutional level and reviewed by the appropriate governing board before being submitted to the Board staff for analysis and presentation to the Board of Higher Education.

The Board of Higher Education also has statutory responsibility to approve operating authority and degree-granting authority for certain independent and out-of-state institutions operating within the state of Illinois. In addition, the Board must approve all new degree programs proposed by those independent institutions established or beginning to offer degrees after August 14, 1961.

Moreover, the Board carries out ongoing reviews of those independent institutions operating and offering degrees under the Board's authorization to assure that the institutions maintain the conditions under which the original authority to operate or grant degrees was given. The Board has the power to revoke its authorization if an institution fails to sustain the conditions required by the initial approval to operate or grant degrees.

## **Internal Hiring**

### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

None, per agency's report to the Task Force

### **Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

### **System of personnel administration**

By statute, the IBHE is considered to be a state agency in a limited number of situations (e.g., auditing). However, for the purposes of hiring employees, it is not considered a state agency. State Universities Civil Service System oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

**Merit Board [100 ILCS 70/36b (3)]** The State Universities Civil Service System hereby created [110 ILCS 70/36b] shall be a separate entity of the State of Illinois and shall be under the control

of a Board to be known as the University Civil Service Merit Board, and is hereinafter referred to as the Merit Board.

See Chapter IV of this report for more detail on this system of personnel administration and the discretionary criteria for the rejection or disqualification of applicants applying for positions at the public institutions of higher education and related agencies.

#### **Criminal history record check procedures for internal hiring**

##### **1) Self-disclosure on application**

Not mentioned in the agency's report to the Task Force

##### **2) Background check review procedure**

Not specified in the agency's report to the Task Force

#### **Exemption, waiver, or review mechanisms**

Not specified in the agency's report to the Task Force

#### **Number of job applicants for agency positions who were subject to a criminal history records check in 2010-2011**

3 prior to February 2012

### **Occupational Licensing, Certification, Regulation**

#### **Regulatory certificates issued by agency that are subject to criminal history restrictions**

Private business and vocational schools, particularly governing board members, owners, and senior administrators

#### **Statutory restrictions on regulatory certificates**

##### **Private Business and Vocational Schools Act of 2012 [105 ILCS 426/35]**

Sec. 35. Institution and program approval criteria. Each entity seeking a permit of approval is required to demonstrate that it satisfies institution-approval criteria and that each program of study offered meets the program-approval criteria in this Act and any applicable rules. The following must be considered as part of, but not necessarily all of, the criteria for approval of institutions and the programs offered under this Act: (1) Qualifications of governing board members, owners, and senior administrators. At a minimum, **these individuals must be of good moral character and have no felony criminal record.**

**Restriction type:** Mandatory

**Restriction duration:** Not specified

#### **Exemption, waiver, or review mechanisms for regulatory certificates**

**[105 ILCS 426/85] Violations under the Act.** f) Any person affected by a final administrative decision of the Board's Executive Director may have such decision reviewed judicially by the circuit court of the county wherein the person resides, or in the case of a corporation, wherein the registered office is located. If the plaintiff in the review proceeding is not a resident of this State, the venue shall be in Sangamon County. The provisions of the Administrative Review Law, and



all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Board's Executive Director. "Administrative decisions" has the same meaning as in Section 3-101 of the Code of Civil Procedure.

## **Employment Contracting**

### **Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.80 Status Appointments**

#### **b) Contract Appointments.**

1) Contract Appointments are made to positions in the System when such positions are covered by a contract between an employer served by the System and either: A) the State of Illinois, or an agency thereof, where the work performed is under the direct supervision and control of a member of the staff of the state agency, and on the premises of that agency; or B) any institution, agency, or organization, other than the State of Illinois or any agency thereof, where the work is required to be performed at locations away from the premises of the employing College or University or its immediate environs.

#### **Statutory, regulatory, agency policy restrictions applicable to contractual hiring**

None

## **Summary of Employment Restrictions from Agency Report**

The IBHE does not have any employment restrictions based on criminal records for (1) employment within the agency; (2) employment pursuant to contracts with the agency; and (3) employment in occupations that the agency licenses or provides certifications to practice.

The IBHE is responsible for administering a statutory restriction at facilities it regulates. Pursuant to Section 35 of the Private Business and Vocational Schools Act of 2012 [105 ILCS 426] the IBHE must consider the qualifications of governing board members, owners, and senior administrators. "At minimum, these individuals must be of good moral character and have no felony criminal record."

The IBHE currently employs 34 individuals and has requested three background checks during the two years prior to February 1, 2012.

# ILLINOIS CIVIL SERVICE COMMISSION

## Government Services/ Executive Agency

**FY14 Headcount: 9**

<http://www2.illinois.gov/icsc/Pages/default.aspx>

### **Summary of Agency Operations**

The Civil Service Commission hears and determines employee appeals of discharges, suspensions, transfers, allocations, layoffs and demotions under the state's Personnel Code and Rules. The commission applies merit principles to personnel administration and performs other technical activities that affect state public employment in conformance with mandates set forth in the Personnel Code.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None

#### **Statutory restrictions applicable to internal hiring**

None

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100)

##### **2) Background check review procedure**

No background check conducted on applicants, per agency report to Task Force

#### **Exemption, waiver, or review mechanisms**

N/A

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

0

## **Occupational Licensing, Certification, Regulation**

**Occupational licenses issued subject to criminal history restrictions**

N/A

## **Employment Contracting**

**Contracting restrictions based on criminal history**

### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Illinois Civil Service Commission (ICSC) does not have any restrictions for employment within the agency based on criminal records. The Commission has not caused any applicant to undergo a criminal background check.

# **ILLINOIS COMMERCE COMMISSION**

**Environment and Business Regulations/Executive agency**

**FY14 Headcount: 275**

<http://www.icc.illinois.gov/>

## **Summary of Agency Operations**

The Illinois Commerce Commission (ICC) ensures safe, reliable and economical utility services to the citizens of Illinois. ICC regulates the spending of utility companies while allowing them the opportunity to earn a reasonable profit. ICC also regulates trucking companies, natural gas pipelines, property warehouses and railroad crossings. In fiscal year 2013, ICC added oversight of the repossession industry to its existing oversight of movers and towers.

## **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

Not mentioned in the agency report

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

**Jurisdiction and Powers of the (Commerce) Commission [625 ILCS 5/Ch 18C Sub 1 Art II heading] ARTICLE II. (625 ILCS 5/18c-1205) Sec. 18c-1205. Qualifications of Transportation Compliance Program Staff.** (a) Merit standards and procedures, and education requirements, applicable to State troopers  
**See State Police Merit Board Fact Sheet for disqualifying criteria**

**System of personnel administration for non-sworn personnel**

Subject to the Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

**Criminal history record check procedures**

- 1) Self-disclosure on application**  
Yes (CMS 100)
- 2) Background check review procedure**  
Background checks conducted, but procedures not specified in agency's report to the Task Force

**Exemption, waiver, or review mechanisms**

Not specified in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

14

None disqualified; none sought waiver

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Commercial relocator license (in regard to trespassing vehicles); Tow truck driver, and dispatcher employment permits (in regard to trespassing vehicles); Collateral repossession (vehicles) agency licenses, collateral recovery manager; collateral recovery employee; Disabled vehicle (non-relocation) towing license; disabled vehicle (non-relocation) driver permits; Motor carriers of property; household goods carriers (movers)

### **Statutory, regulatory restrictions applicable to occupational licensing**

#### **Commercial relocators license:**

#### **Administrative Code: Title 92, Transportation, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application a) Relocator's Licenses a) (1) The**

Commission shall consider, with regard to applications for new or renewed relocator's licenses, **the criminal conviction records (see Section 1710.22(b)(1) below)** of the applicant, its owners or controllers, directors, officers, members, managers, employees and agents; the safety record of those persons; the compliance record of those persons; the equipment, facilities and storage lots of the applicant; and other facts that may bear on their fitness to hold the license.

**Restriction type:** Mandatory

**Restriction duration:** Within 5 years preceding filing of the application

#### **Background Check Procedures for relocator license**

##### **(1) Self-disclosure on application for relocator license**

[Sec. 18a-400.] Relocator's licenses - Applications, original determinations. (a) Each application for a license to operate as a commercial vehicle relocator shall be made in writing to the Commission, shall be verified under oath, shall be in such form and contain such information as the Commission may by regulation require, and shall be accompanied by the required application fee and proof of security

##### **(2) Background check procedure for relocator license**

[625 ILCS 5/18a-200] 7) Investigate and maintain current files of the criminal records, if any, of all relocators and their employees and of all applicants for relocator's license, operator's licenses and dispatcher's licenses. If the Commission determines that an applicant for a license issued under this Chapter will be subjected to a criminal history records check, the applicant shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record information databases now and hereafter filed. The Department of State Police shall charge the applicant a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish pursuant to positive identification, records of conviction to the Commission

##### **(3) Review procedures for relocator license**

**[Sec. 18a-400]. Relocator's licenses - Applications, original determinations.** (a) Each application for a license to operate as a commercial vehicle relocator shall be made in writing to the Commission, shall be verified under oath, shall be in such form and contain such information as the Commission may by regulation require, and shall be accompanied by the required application fee and proof of security. (b) Upon the filing of such application, the Commission shall, within a reasonable time, fix a time and place for public hearing thereon. At least 10 days before the hearing, the Commission shall notify the applicant and all parties of record to such proceeding of the time and place of such hearing, by mailing a notice thereof to each such party to the address of such party shown in the records of such proceeding. Any person having an interest in the subject matter may appear at the hearing in support of or in objection to the application. (d) The Commission shall issue a relocator's license to any qualified applicant therefor after hearing, pursuant to an application filed, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to provisions of this Chapter and the requirements, rules and regulations of the Commission thereunder; otherwise such application shall be denied. The order of the Commission granting or denying a relocator's license shall set forth the specific findings of fact on which such order is based.

#### **Relocator operators and dispatchers:**

**Administrative Code: Title 92, Transportation, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits.**

(b) (1) The Commission shall consider, with regard to applications for new or renewed operator's and dispatcher's employment permits, any record of the applicant of **convictions involving injury or death to persons, use of a deadly weapon, injury to property, or unlawful taking of property; crimes relevant to the determination of the credibility of a witness; or of violation of the Law or this Part.** 2) No provisional employment permits shall be issued to persons who have been convicted of crimes specified in subsection (b)(1) **within the 5 year period preceding filing of the application, or to persons who are defendants in pending criminal proceedings involving those crimes.**

**Restriction type:** Mandatory

**Restriction duration:** Within 5 years preceding filing of the application

**Administrative Code: Title 92, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits.**

The Commission may deny a provisional employment permit to any person with a record of violations of the Law or this Part. In determining whether to deny a provisional employment permit on the basis of violations of the Law or this Part, the Commission will consider such factors as the type of violation, when the violation occurred, and the age of the applicant at the time of the violation. The Commission may also deny a provisional employment permit on the basis of the applicant's criminal or driving record, in the case of an application for a provisional operator's employment permit, **or on the basis of the applicant's criminal record, in the case of an application for a provisional dispatcher's employment permit. In determining whether to deny a provisional employment permit on the basis of a criminal or driving record, the Commission will consider such factors as the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.**

**Restriction Type:** Discretionary

**Restriction Duration:** Within the 5 year period preceding filing of the application

**Administrative Code: Title 92, Chapter III, Subchapter d, Part 1710, Subpart B, Section 1710.22 Policy on Application b. Operator's and Dispatcher's Employment Permits**

When the applicant has a record of convictions for crimes specified in subsection (b)(1), or the applicant was convicted for those crimes, or the applicant was convicted more than 5 years prior to filing the application, or the applicant has a record of violations of the Law or this Part, the application for a permanent employment permit shall be set for hearing.

**Restriction Type:** Mandatory

**Restriction Duration:** More than 5 years prior to filing the application

**Illinois Commercial Relocation of Trespassing Vehicles Law 625 ILCS 5/18a-201**

**[625 ILCS 5/18a-404]** Operator's and dispatcher's employment permits – Revocation.

(1) The Commission shall suspend or revoke the permit of an operator if it finds that:

(a) The operator or dispatcher made a **false statement** on the application for an operator's or dispatcher's employment permit; (b) The **operator's or dispatcher's driver's license** issued by the Secretary of State has been **suspended or revoked**; (c) The operator or dispatcher has been **convicted, during the preceding 5 years, of any criminal offense of the State of Illinois or any other jurisdiction involving any of the following, and the holder does not make a compelling showing that he is nevertheless fit to hold an operator's license: (i) Bodily injury or attempt to inflict bodily injury to another; (ii) Theft of property or attempted theft of property; or (iii) Sexual assault or attempted sexual assault of any kind; or (d) The operator or dispatcher has, during the preceding 5 years, violated this Chapter, Commission regulations or orders, or any other law affecting public safety, and the holder does not make a compelling showing that he or she is nevertheless fit to hold an operator's license.**

**Restriction type:** Mandatory

**Restriction duration:** 5 years previous to discovery of criminal conviction

**Background Check Procedures for operator, dispatcher permits**

**(1) Self-disclosure on application for operator, dispatcher permit**

Yes **[625 ILCS 5/18a-403]** (2) Upon the filing of such application, the Commission shall conduct an investigation of the criminal record, if any, of the applicant.

**(2) Background check and Review Procedures for operator, dispatcher permit**

**[625 ILCS 5/18a-200]** The Commission shall, within 3 working days, issue to any new applicant for an employment permit a provisional operator's or dispatcher's employment permit **unless the Commission finds that the applicant has committed an offense for which the permit could be revoked under Section 18a-404 of this Chapter** (see above). This provisional employment permit shall be valid for a period of 1 year unless suspended or revoked by order of the Commission. At the end of 1 year, the provisional permit shall automatically become permanent unless the permit was revoked by order of the Commission during the preceding year. The permanent permit shall remain valid unless suspended or revoked by order of the Commission under this law

**Exemption, waiver, or review mechanisms**

None provided in statute or administrative rule

**Collateral recovery managers:** (Section scheduled to be repealed on January 1, 2022)

**Collateral recovery Act [225 ILCS 422/40 (a)(2)] (Qualifications for recovery manager; identification card)** a) An applicant is qualified for licensure as a recovery manager if that person meets all of the following requirements: (2) Has not been convicted in any jurisdiction of any felony or at least 10 years has passed from the time of discharge from any sentence imposed for the felony.

**Restriction Type:** Mandatory

**Restriction Duration:** 10 years since discharge from any sentence imposed for a felony

**Repossession agency employee:** (Section scheduled to be repealed on January 1, 2022)

**Collateral recovery Act [225 ILCS 422/45] Sec. 45. Repossession agency employee requirements.** (a) All employees of a licensed repossession agency whose duties include the actual repossession of collateral must apply for a recovery permit. (B) Has been determined by the Commission to **be unfit by reason of conviction of an offense in this or another state, other than a minor traffic offense.** The Commission shall adopt rules for making those determinations.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Title 92: Transportation, Chapter III: Illinois Commerce Commission, Subchapter b: Motor Carriers of Property, Part 1480 Collateral Recovery, Section 1480.50 Recovery Permits**

**Background Check Procedures for repossession agency employee**

**(1) Self-disclosure on application for repossession agency employee permit**

Yes [225 ILCS 422/45] Sec. 45. Repossession agency employee requirements. (2) No person may be employed by a repossession agency under this Section until he or she has executed and furnished to the Commission, on forms furnished by the Commission, a verified statement to be known as an "Employee's Statement" setting forth all of the following: (D) **Any conviction of a felony**, except as provided for in Section 85 (See below). (E) Any other information as may be required by any rule of the Commission to **show the good character, competency, and integrity of the person** executing the statement.

**(2) Background check and Review Procedures for repossession agency employee**

[225 ILCS 422/45] (b) Each applicant for a recovery permit shall have his or her fingerprints submitted to the Commission by a Live Scan fingerprint vendor certified by the Illinois State Police under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Illinois State Police. These fingerprints shall be checked against the Illinois State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Commission shall charge applicants a fee for conducting the criminal history records check,



which shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Commission. The Commission, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Commission, in its discretion, may also use other procedures in performing or obtaining criminal history records checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Commission that an equivalent security clearance has been conducted.

**Owner of collateral recovery (repossession) company:**

**Title 92: Transportation, Chapter III: Illinois Commerce Commission, Subchapter b: Motor Carriers of Property, Part 1480 Collateral Recovery, Section 1480.20 Repossession Agency Licensure**

d) The Commission shall review applications for repossession agency licensure to determine whether the applicant has satisfied the fitness criteria contained in the Act and this Part. **If, upon review of an application, the Commission discovers that the applicant or any individual required to submit to a criminal background check as part of the licensure process has been convicted of any crime under the laws of the United States or any state or territory of the United States that is a felony, a misdemeanor an essential element of which is dishonesty, or a crime related to the practice of the profession [225 ILCS 422/80],** the matter shall be set for an administrative hearing before an Administrative Law Judge to assist the Commission in determining whether the applicant is unfit by reason of conviction. e) At the hearing, the applicant shall have the burden of proving fitness by clear and convincing evidence.

**Restriction Type:** Mandatory (court hearing)

**Restriction Duration:** Not specified

**Background Check and Review Procedures for repossession agency owner**

225 ILCS 422/60) (Section scheduled to be repealed on January 1, 2022) Sec. 60. Criminal background check. The Commission shall require that each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company, as part of the application process, authorize a criminal history records check to determine if such applicant has ever been charged with a crime and, if so, the disposition of those charges. Upon this authorization, each individual, partner of a partnership, officer of a corporation, or owner of a limited liability company shall submit his or her fingerprints to the Commission in the form and manner prescribed by the Illinois Commerce Commission Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois State Police and Federal Bureau of Investigation criminal history records databases. The Commission shall charge a fee for conducting the criminal history records check, which shall be deposited in the Transportation Regulatory Fund and shall not exceed the actual cost of the records check. The Illinois Commerce Commission Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed against an applicant upon request of the Commission when the request is made in the form and manner required by the Illinois Commerce Commission Police. (Source: P.A. 97-576, eff. 7-1-12.)

**Review considerations for all licenses under Collateral Recovery Act [225 ILCS 422/80]**

Sec. 80. Refusal, revocation, or suspension. (a) The Commission may refuse to issue or renew or may revoke any license or recovery permit or may suspend, place on probation, fine, or take any disciplinary action that the Commission may deem proper, including fines not to exceed \$2,500 for each violation, with regard to any license holder or recovery permit holder for one or any combination of the following causes: (1) Knowingly making any misrepresentation for the purpose of obtaining a license or recovery permit. (2) Violations of this Act or its rules. (3) **Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime that is related to the practice of the profession.** (5) Engaging in **dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public** as defined by rule (6) **Violation of any court order from any State or public agency engaged in the enforcement of payment of child support arrearages or for noncompliance with certain processes relating to paternity or support proceeding.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Evaluation criteria of prior criminal history under Collateral Recovery Act [225 ILCS 422/80]**

**(225 ILCS 422/85) Sec. 85.** Consideration of past crimes. (a) Notwithstanding the prohibitions set forth in Sections 40 and 45 of this Act, when considering the denial of a license or recovery permit on the grounds of conviction of a crime, the Commission, in evaluating the rehabilitation of the applicant and the applicant's present eligibility for a license or recovery permit, shall consider each of the following criteria: (1) The nature and severity of the act or crime under consideration as grounds for denial. (2) Evidence of any act committed subsequent to the act or crime under consideration as grounds for denial, which also could be considered as grounds for disciplinary action under this Act. (3) The amount of time that has lapsed since the commission of the act or crime referred to in item (1) or (2) of this subsection (a). (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant. (5) Evidence, if any, of rehabilitation submitted by the applicant.

**Non-relocation (disabled vehicle) towing license:**

**Chapter 18c. Illinois Commercial Transportation Law (625 ILCS 5/18c-5303) Sec. 18c-**

**5303.** The Fitness Test. (1) Prima Facie Evidence of Applicant Fitness in Licensing Cases.

Applicants for non-relocation towing licenses may establish a prima facie showing of fitness by the following evidence: (d) A statement that the applicant **has not: (i) Been convicted, during the 2 years immediately preceding the filing of the application, of a felony involving theft of property, violence to persons, or criminal damage to property**

**Restriction Type:** Discretionary

**Restriction Duration:** During the 2 years immediately preceding the filing of the application

**Household Goods Carriers (Movers):**

**Administrative Code: Title 92, Chapter III, Subchapter a, Commercial Transportation Generally, Part 1457 Household Goods Carriers, Subpart B, Section 1457.80**

**Requirements to show fitness** b. In determining whether the applicant is fit to operate as a

household goods carrier, the Commission shall consider the following: 3) The conviction of the applicant of a crime punishable by death or imprisonment in excess of one year under the law under which he/she was convicted (**felony**), or a **crime involving dishonesty or false statement regardless of the punishment**. The Commission will consider the type of crime, when the crime occurred, and the age of the applicant at the time of the incident

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **Motor Carriers of Property:**

**Administrative Code: Title 92, Chapter III, Subchapter b Motor Carriers of Property, Part 1301, Subpart A, Section 1301.15 Prerequisites to grant of interstate motor carrier registration**

The Commission shall grant a completed application for an interstate motor carrier of property registration if it is accompanied by the fee prescribed in 92 Ill. Adm. Code 1205, absent evidence at hearing that the applicant has operated or will operate in violation of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1985, ch. 95½, pars. 18c-1101 et seq.) or Commission regulations and orders. For example, if the record at hearing shows that an applicant for an interstate motor carrier registration has been **convicted of stealing freight**, the registration could be denied on grounds of fitness.

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

**Administrative Code: Title 92, Chapter III, Subchapter b, Part 1304 Motor Carriers of Property Fitness Standards, Section 1304.10 Fitness Standards d.** The conviction of the applicant of a crime punishable by death or imprisonment in excess of one year under the law under which he was **convicted (felony)**, or a **crime involving dishonesty or false statement regardless of the punishment**. The Commission will consider the type of crime, when the crime occurred, and the age of the applicant at the time of the incident.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **Employment Contracting**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

Agency had 14 applicants who underwent criminal background checks from January 1, 2010 to December, 31, 2011. None were disqualified, none sought waiver, and none were denied waiver. No other information on agency employment restrictions reported to the Task Force.

# ILLINOIS COMMUNITY COLLEGE BOARD

## Education Agency

**FY14 Headcount: 44**

<http://www.iccb.org/>

### **Summary of Agency Operations**

The Illinois Community College System covers the entire state with 48 colleges and one college center in 39 community college districts. As the coordinating Board for the State's public two year colleges, the Board administers the Public Community College Act in a manner that maximizes the ability of the community colleges to serve their individual communities. Its duties and responsibilities include: developing procedures to maximize freedom of transfer among community colleges and between community colleges and degree-granting institutions; conducting feasibility studies for new community colleges; approving all locally funded capital projects; determining standards for community colleges for instruction and teaching, curriculum, library, operation, maintenance, administration, and supervision; approving or disapproving new units of instruction, research, and public service.

The system serves nearly one million Illinois residents each year in credit and noncredit courses and many more through their public service programs. As an integral part of the state's system of higher education, community colleges are committed to providing high-quality, accessible, cost-effective educational opportunities for the individuals and communities they serve.

State University Civil Service System oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

### **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

None

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

### **System of personnel administration**

State Universities Civil Service System oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

**Merit Board [100 ILCS 70/36b (3)]** The State Universities Civil Service System hereby created [110 ILCS 70/36b] shall be a separate entity of the State of Illinois and shall be under the control of a Board to be known as the University Civil Service Merit Board, and is hereinafter referred to as the Merit Board.

See Chapter IV of this report for more detail on this system of personnel administration and the discretionary criteria for the rejection or disqualification of applicants applying for positions at the public institutions of higher education and related agencies.

### **Background Check Procedures**

#### **(1) Self-disclosure on application**

Yes

#### **(2) background check review procedure**

The background check is reviewed by the Director of Human Resources and one other Executive staff and a decision is made and given to the applicant in writing. The President/CEO has the option to review the decision made by Human Resources.

### **Exemption, waiver, or review mechanisms**

The Board Committee on Finance, Personnel and Ethics will review appeals and make a final determination

### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

None, per agency's report to the Task Force

### **Occupational Licensing, Certification, Regulation**

N/A

### **Employment Contracting**

#### **State Universities Civil Service System**

#### **Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.80 Status Appointments**

##### **b) Contract Appointments.**

1) Contract Appointments are made to positions in the System when such positions are covered by a contract between an employer served by the System and either: A) the State of Illinois, or an agency thereof, where the work performed is under the direct supervision and control of a member of the staff of the state agency, and on the premises of that agency; or B) any institution, agency, or organization, other than the State of Illinois or any agency thereof, where the work is required to be performed at locations away from the premises of the employing College or University or its immediate environs.

#### **Restriction Type:**

Discretionary

#### **Restriction Duration:**

Not mentioned in the above listed administrative code

#### **Statutory, regulatory, agency policy restrictions applicable to contractual hiring**

None

### **Summary of Employment Restrictions from Agency Report**

Agency does not have specific policies or job titles excluding individuals with a criminal record from employment on the Board

The job application does ask if the applicant has a criminal record. Any applicant with a criminal record will have a criminal history background check submitted to the Illinois State Police. The background check is reviewed by the Director of Human Resources and one other member of the Executive Staff and a decision is made and given to the applicant in writing. The President/CEO has the option to review the decision made by Human Resources. The Board Committee on Finance, Personnel, and Ethics will review appeals and make a final determination.

Agency did not have any applicants with a criminal history apply for a position from February 1, 2010 to February 1, 2012.

# ILLINOIS COUNCIL ON DEVELOPMENTAL DISABILITIES

## Human Services Agency/Executive Agency

**FY14 Headcount: 9**

<http://www.state.il.us/agency/icdd/>

### **Summary of Agency Operations:**

The Illinois Council on Developmental Disabilities (ICDD) invests with local and statewide agencies, organizations and individuals to implement the performance targets in the Five Year State Plan. Areas of emphasis include childcare, transportation, community supports, employment, housing, health, education/early intervention and quality assurance. ICDD promotes initiatives to coordinate services that support and assist people with developmental disabilities and their families. ICDD helps public and private entities respond to the needs and capabilities of people with developmental disabilities through promoting system changes, developing capacity building, and providing advocacy activities.

### **Internal Hiring:**

#### **Agency positions subject to restrictions based on criminal history**

None

#### **This agency is subject to personnel or non-personnel code.**

This is a personnel code agency

#### **Statutory Restrictions Applicable to Internal Hiring:**

None

#### **Year restriction was adopted**

N/A

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes

##### **(2) background check review procedure**

Not mentioned in the agency report

#### **Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

#### **Total number of people who underwent a background check**

Not mentioned in the agency report

### **AGENCY occupational licensing restrictions based on criminal history:**

N/A



**Employment contracting restrictions**

**Based on criminal history:**

N/A

**Summary of Employment Restrictions from Agency Report:**

The Illinois Council on Developmental Disabilities does not have any restrictions for employment on persons with criminal records. The Council seeks the routine background checks performed by the State Police for new state employees. This information is not used to restrict employment.

# **ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY**

**Public Safety/Executive Agency**

**FY14 Headcount: 84**

<http://www.icjia.state.il.us/public/>

## **Summary of Agency Operations**

The Illinois Criminal Justice Information Authority (ICJIA) administers criminal justice in the areas of grants administration, research and analysis, policy and planning, and information systems and technology. ICJIA administers more than \$190 million in state and federal funding annually, provides the latest research to pinpoint and inform lawmakers of current crime trends and issues, and develops cutting edge technology to assist in data collection and provision. ICJIA identifies and incorporates evidence-based practices in strategic planning initiatives, grant administration and other areas.

## **Internal Hiring**

### **Agency positions subject to restrictions based on criminal history, by agency policy**

All ICJIA titles: Executive Director, Private Secretary, HR Director, General Counsel, Technical Advisor 3 & 2, Director Office of Administrative Services, Director of Fiscal Management, Director of Federal & State Grant Unit, Director of R & A Unit, Director of Information Systems Unit, Accountant, Accountant Advanced, Criminal Justice Specialist 1 & 2, Information Systems Analyst 1 & 2, Information Services Specialist 1, Data Processing Specialist, Public Service Administrators 1, 2, 3, and 7 due to the involvement of confidential information including human subject research, and access to criminal history records and other sensitive law enforcement information.

### **Statutory, regulatory restrictions applicable to internal hiring**

None

### **Agency policy restrictions applicable to internal hiring**

ICJIA Employment Investigation Policy Statement dated May 2, 2002. Agency policy instituted due to the involvement of confidential information including human subject research, and access to criminal history records and other sensitive law enforcement information. It does not enumerate disqualifying offenses, per agency's report submitted to the Task Force.

### **System of personnel administration**

#### **Personnel Code [20 ILCS 415]**

#### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

### **Criminal history record check procedures**

#### **1) Self-disclosure on application**

Yes (CMS 100 and Request for Release of Information)

**2) Criminal history record review procedure**

Finger print-based criminal history record check is to be conducted by the State Police on all full-time positions, per agency's report to the Task Force.

**3) In-house review procedure**

Employment decision made on the basis of a conviction history requires consultation with Human Resource, who in turn consults with Legal Counsel and the Executive Director.

**Exemption, waiver, or review mechanisms**

None specified in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to the Task Force

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

Applicants are subject to fingerprint-based criminal history records checks in order to verify existence or non-existence of a criminal history record. Employment decisions made on the basis of a conviction history requires consultation with human resources, who then consults with legal counsel and the executive director.

The number of applicants subject to this criminal history records check was not reported to the Task Force.

# **ILLINOIS DEAF AND HARD OF HEARING COMMISSION**

## **Human Services/Executive Agency**

**FY14 Headcount: 8**

<http://www2.illinois.gov/idhhc/Pages/default.aspx>

### **Summary of Agency Operations**

The Illinois Deaf and Hard of Hearing Commission (IDHHC) represents the interests of the deaf and hard of hearing population by promoting the reduction of communication barriers throughout the state. Additionally, through the implementation of the Deaf Interpreter Licensure Program, IDHHC assures all deaf and hard of hearing consumers are afforded protection from unlicensed, unqualified sign language interpreters.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None

#### **Statutory restrictions applicable to internal hiring**

None

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **10) Self-disclosure on application**

Yes (CMS 100)

##### **11) Background check review procedure**

None, per agency report to the Task Force

#### **Exemption, waiver, or review mechanisms**

N/A

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

N/A

## **Occupational Licensing, Certification, Regulation**

### **Occupational license issued subject to criminal history restrictions**

Sign language interpreter (question on license application)

### **Statutory, regulatory restrictions applicable to occupational licensing**

None

### **Criminal history record check procedures**

#### **1) Self-disclosure on application**

Sign language interpreter license application asks “Have you ever been found guilty of or entered a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$500). If yes, attach a detailed explanation including supporting documentation”

#### **2) Background check review procedure**

Per agency report to Task Force, there is no legislative requirement to conduct background checks when issuing sign language interpreter license, so no the Commission has nothing to report.

### **Exemption, waiver, or review mechanisms**

N/A

### **Number of license applicants who were subject to a criminal history records check in 2010-2011**

0

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Illinois Department of Deaf and Hard of Hearing Commission (IDHHC) has the authority to conduct background investigations for employment purposes but at this time does not enforce.

**ILLINOIS DEPARTMENT OF AGRICULTURE**  
**Economic Development and Infrastructure/Executive Agency**

**FY14 Headcount: 360**

<http://www.agr.state.il.us/>

**Summary of Agency Operations**

The Illinois Department of Agriculture (IDA) advocates for Illinois' agricultural industry and provides regulatory functions to benefit consumers, the industry and natural resources, including livestock and meat inspections. In addition, the department licenses feeder swine dealers and livestock dealers. The department inspects all scales and measuring devices to ensure consumer protection against fraud, and also focuses on soil conservation and its impact on natural areas.

**Internal Hiring**

**Agency positions subject to restrictions based on criminal history, by statute, regulation, or agency policy**

All agency employees, by agency policy (titles not specified)

**Statutory, regulatory restrictions applicable to internal hiring**

None

**Agency policy restrictions on internal hiring based on criminal history**

Disqualifying offenses not enumerated in agency's report to the Task Force

**System of personnel administration**

Subject to the Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

**Criminal history record check procedures**

**12) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

**13) How criminal history is obtained**

Not specified in agency's report to the Task Force

**14) In-house review procedures**

Not specified in agency's report to the Task Force

**Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

28

## **Occupational Licensing, Certification, Regulation**

### **Occupations subject to criminal history restrictions**

Feeder Swine Dealer

Livestock Dealer

### **Statutory/administrative rule restrictions applicable to occupational licensing**

#### **Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/1]**

**225 ILCS 620/9.** Grounds for refusal to issue or renew license and for license suspension and revocation. The Department may refuse to issue or renew or may suspend or revoke a license on any one or more of the following grounds: e) **Conviction of any crime an essential element of which is misstatement, fraud or dishonesty or conviction of any felony**, if the Department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust

**Restriction type:** Discretionary

**Restriction duration:** Not specified

Title 68: Professions and Occupations, Chapter II; Department of Agriculture; Part 590 Feeder Swine Dealer

#### **Section 590.100 License Application Information**

Applications by individuals for original licenses shall be made to the Department in writing on forms prescribed by the Department, and shall be accompanied by the required bond and required fee, which shall not be returnable. Any such application shall require such information as in the judgment of the Department enable the Department to pass on the qualifications of the applicant for a license. This information shall include, but need not be limited to, information regarding legal address of the applicant, partners, corporate officers, managers, location(s) of holding facilities (if any), names and addresses of agents, bank and professional references, present and previous business connections and experience, whether any license dealing with the handling of livestock has ever been suspended or revoked, **and whether the applicant ever has been convicted of a felony. Such felony convictions may be taken into consideration by the Department in determining qualifications for licensing but shall not operate as a bar to licensing.**

**Restriction type:** Discretionary

**Restriction duration:** Not specified

#### **Illinois Livestock Dealer Licensing Act [225 ILCS 625/1]**

**225 ILCS 645/9 Sec. 9.** The Department may refuse to issue or renew or may suspend or revoke a license on any of the following grounds: e). **Conviction of any felony, if the Department determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust; f) Conviction of any crime an essential element of which is misstatement, fraud or dishonesty; g) Conviction of a violation of any law in Illinois or any Departmental rule or regulation relating to livestock**

**Restriction type:** Discretionary

**Restriction duration:** Not specified

Title 68: Professions and Occupations, Chapter II; Department of Agriculture; Part 610 Livestock Dealer Licensing

### **Section 610.150 License Application Information**

Applications by individuals for original licenses shall be made to the Department in writing on forms prescribed by the Department, and shall be accompanied by the required bond and required fee, which shall not be returnable. Any such application shall require such information as in the judgment of the Department enable the Department to pass on the qualifications of the applicant for a license. This information shall include, but need not be limited to, information regarding legal address of the applicant, partners, corporate officers, managers, location(s) of holding facilities (if any), names and addresses of agents, bank and professional references, present and previous business connections and experience, whether any license dealing with the handling of livestock has ever been suspended or revoked, **and whether the applicant ever has been convicted of a felony. Such felony convictions may be taken into consideration by the Department in determining qualifications for licensing but shall not operate as a bar to licensing.**

**Restriction type:** Discretionary

**Restriction duration:** Not specified

### **Criminal history record check procedures**

#### **3) Self-disclosure on application**

Yes

#### **4) Background check review procedure**

Discretionary review prior to issuance of license, per administrative rule

### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

### **Number of license applicants who were subject to a criminal history records check in 2010-2011**

Not reported

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

Illinois Department of Agriculture conducts background checks for all full time positions.



In the past two years, 28 employees underwent criminal background checks. None were deemed disqualified and none sought waiver.

# DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## Economic Development and Infrastructure/Executive Agency

FY14 Headcount: 408

<http://www.commerce.state.il.us/dceo/>

### **Summary of Agency Operations:**

The Department of Commerce and Economic Opportunity (DCEO) seeks to enhance the economic well-being for the state. DCEO focuses on expanding access to global market opportunities; promoting Illinois as a worldwide business locale; supporting companies that are creating jobs and investing in Illinois; connecting start-ups and entrepreneurs with opportunities for capital and expertise; developing our skilled, competitive workforce; and marketing Illinois to attract visitors and business development to the state.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Personal services contractors only.

#### **This agency is subject to personnel or non-personnel code.**

This is a personnel code agency

### **Statutory Restrictions Applicable to Internal Hiring**

#### **Restrictions based on criminal history:**

#### **30 ILCS 500/50-5 (Bribery)**

##### **a. Prohibition**

No person or business shall be awarded a contract or subcontract under this Code who:

1) Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

2) Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

**Restriction Type:** Mandatory

**Restriction Duration:** Five years after completion of sentence

#### **Administrative Code: Title 14, Subtitle C, Chapter I, Part 640, Sub part A, Section 640.130. Applicant Certifications.**

Each loan applicant for program financing will be required to satisfy the following certifications:

h. Bidding on State Contracts – Applicant certifies that it has not been barred from bidding on or entering into State contracts as a result of a violation of the Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, pars. 33E-3 and 33E-4).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 14, Subtitle C, Chapter I, Part 640, Section 640.330. Applicant Certifications.**

Each applicant for program financing will be required to satisfy the following certifications, when applicable:

g. Bidding on State Contracts – Applicant certifies that it has not been barred from bidding on or entering into State contracts as a result of a violation of the Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, par. 1-1 et seq.).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Year restriction was adopted**

1998

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes

**(2) Background check review procedure**

Certification by contractor in personal services contract and review of executed contract

Each new employee must sign a CMS release of information form, which authorizes the State Police to release criminal record information. However, CMS reports that it randomly selects individuals for such background checks.

**Exemption, waiver, or review mechanisms**

N/A

**Total number of people who underwent a background check**

21 individuals were merely required to disclose their criminal history without a criminal history background check. This applied to personal services contractors only.

**Occupational Licensing, Certification, Regulation**

None

**Employment Contracting**

**Restrictions based on criminal history:**

**30 ILCS 500/50-5 (Bribery)**

a. Prohibition

No person or business shall be awarded a contract or subcontract under this Code who:

1) Has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in that officer's or employee's official capacity; or

2) Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

**Restriction Type:** Mandatory

**Restriction Duration:** Five years after completion of sentence

**30 ILCS 500/50-10 (Felons)**

A. Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Summary of Employment Restrictions from Agency Report:**

See attached chart

- The restriction process was adopted in 1998. All new employees are required to sign a release of criminal information by the State Police. CMS administers the background check.
- Restrictions are in place for personal services contractors only. Disqualifying offenses include felony convictions, five years after completion of sentence. A review of the executed contract is made by the agency to determine whether an individual's criminal history disqualifies them.
- 21 personal service contractors were required to disclose their criminal history without a criminal history background check.

# DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## Environmental and Business Regulation/Executive Agency

FY14 Headcount: 553

<http://www.idfpr.com/>

### **SUMMARY OF AGENCY OPERATIONS:**

The Department of Financial and Professional Regulation (DFPR) is comprised of three divisions: the Division of Banks (DOB), the Division of Financial Institutions (DFI) and the Division of Professional Regulation (DPR). DFPR oversees the regulation and licensure of approximately one million licensed individuals and entities, including banks and credit unions; mortgage brokers; currency exchanges; payday lenders; doctors and dentists; nurses; pharmacists; and real estate brokers. DFPR protects the rights of Illinois residents in transactions with regulated industries.

### **Internal Hiring:**

**Agency positions subject to restrictions based on criminal history, by statute, regulation, or agency policy:**

#### **By statute or regulation:**

##### **205 ILCS 5/16.5 (Employment of persons with convictions)**

Except with the prior written consent of the Commissioner, no State bank shall knowingly employ or otherwise permit an individual to serve as an officer, director, employee, or agent of the State bank if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust.

#### **By policy:**

##### **System of personnel administration:**

##### **Personnel Code [20 ILCS 415]**

See section IV, of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

### **Authorization for restriction of applicant**

#### **Statutory Restrictions applicable to internal hiring**

##### **205 ILCS 5/16.5 (Employment of persons with convictions)**

Except with the prior written consent of the Commissioner, no State bank shall knowingly employ or otherwise permit an individual to serve as an officer, director, employee, or agent of the State bank if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **Year restriction was adopted**

8-1-1997

**205 ILCS 510/0.05 (Administration of Act)**

(a) This Act shall be administered by the Secretary of Financial and Professional Regulation, and, beginning on July 28, 2010 (the effective date of Public Act 96-1365), all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, who shall have all of the following powers and duties in administering this Act:

(10.7) To prohibit the hiring of employees who have been convicted of a financial crime or any crime involving breach of trust who do not meet exceptions as established by rule of the Secretary.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Year restriction was adopted**

NA

**Background Check Procedures:****(1) Self-disclosure on application**

Not mentioned in the agency report

**(2) background check review procedure****Medical Practice Act**

**225 ILCS 60/19 (Licensure by endorsement) (Section scheduled to be repealed on December 31, 2013)**

(H) That the applicant undergo the criminal background check established under Section 9.7 of this Act.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Nurse Practice Act**

**225 ILCS 65/55-10 (Qualifications for LPN licensure) (Section scheduled to be repealed on January 1, 2018)**

(b) An applicant for licensure by examination to practice as a practical nurse must do each of the following:

(5) submit to the criminal history records check required under Section 50-35 of this Act

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Nurse Practice Act**

**225 ILCS 65/60-10 (Qualifications for RN licensure) (Section scheduled to be repealed on January 1, 2018)**

b) An applicant for licensure by examination to practice as a registered professional nurse must do each of the following:

(5) Submit to the criminal history records check required under Section 50-35 or this Act.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

Not mentioned in the agency report

**AGENCY occupational licensing restrictions based on criminal history:**

**Residential Mortgage License Act of 1987**

**205 ILCS 635/4-5 (Suspension, revocation of licenses; fines)**

(a) Upon written notice to a licensee, the Commissioner may suspend or revoke any license issued pursuant to this Act if he or she shall make a finding of one or more of the following in the notice that:

(i) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (h) above may be taken:

(1) Being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction which involves fraud, dishonest dealing, or any other act of moral turpitude;

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**205 ILCS 635/6-2 (Removal and prohibition)**

(a) Upon making any one or more of the following findings, the Commissioner may issue a notice of intent to issue an order of removal or prohibition, or an order of removal and prohibition, which order may remove a named person, persons, or entity or entities from participating in the affairs of one or more licensees and may be permanent or for a specific shorter period of time. The findings required under this Section may be any one or more of the following:

(3) Conviction of a business offense under subsection (e) of Section 1-3 or subsection (g) of Section 3-2.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**205 ILCS 635/7-11 (Mortgage loan originator suspension or revocation of registration; refusal to renew; fines)**

(a) In addition to any other action authorized by this Act or any other applicable law, rule or regulation, the Director may do the following:

(1) Suspend, revoke, or refuse to renew a license or reprimand, place on probation or otherwise discipline a licensee if the Director finds that the mortgage loan originator has violated this Act or any other applicable law or regulation or has been convicted of a criminal offense.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**205 ILCS 635/7-3      (Issuance of license. The Director shall not issue a mortgage loan originator license unless the Director makes at a minimum the following findings)**

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; provided that any pardon of a conviction shall not be a conviction for purposes of this item (2).

**Restriction type:** Mandatory

**Restriction duration:** (A) during the 7-year period preceding the date of the application for licensing and registration;

**Transmitters of Money Act**

**205 ILCS 657/80      (Revocation or suspension of licenses)**

(a) The Director may suspend or revoke a license if the Director finds any of the following:

(8) The licensee has been convicted under the laws of this State, another state, or the United States of a felony or of a crime involving a breach of trust or dishonesty.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Acupuncture Practice Act**

**225 ILCS 2/110      (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

(a) The Department may refuse to issue or to renew, place on probation, suspend, revoke or take other disciplinary or non-disciplinary action as deemed appropriate including the imposition of fines not to exceed \$10,000 for each violation, as the Department may deem proper, with regard to a license for any one or combination of the following causes:

(2) Conviction or plea of guilty or nolo contendere of any crime under the laws of the United States or any states or territory thereof that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Illinois Athletic Trainers Practice Act**

**225 ILCS 5/16      (Refusal to issue, suspension, or revocation of license) (Section scheduled to be Repealed on January 1, 2016)**

(C) Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) of any crime that is directly related to the practice of the profession;

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute



**Clinical Psychologist Licensing Act**

**225 ILCS 15/15 (Disciplinary action; grounds)(Section scheduled to be repealed on January 1, 2017)**

The Department may refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, censure, reprimand, or take other disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license issued under the provisions of this Act for any one or a combination of the following reasons:

(1) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the professions.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Clinical Social Work and Social Work Practice Act**

**225 ILCS 20/9 (Qualification for clinical social worker license) (Section scheduled to be repealed on January 1, 2018)**

A person shall be qualified to be licensed as a clinical social worker and the Department shall issue a license authorizing the independent practice of clinical social work to an applicant who:

(2) is of good moral character. In determining good moral character, the Department may take into consideration whether the applicant was engaged in conduct or actions that would constitute grounds for discipline under this Act;

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 20/9A (Qualifications for license as licensed social worker) (Section scheduled to be repealed on January 1, 2018)**

A person shall be qualified to be licensed as a licensed social worker and the Department shall issue a license authorizing the practice of social work to an applicant who:

(2) is of good moral character, as defined in subsection (2) of Section 9

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 20/19 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

(1) The Department may refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, censure, reprimand, or take other disciplinary or non-disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license issued under the provisions of this Act for any one or a combination of the following reasons:

(c) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under to laws of the United States or any state or territory thereof or that is a misdemeanor, of

which as essential element is dishonesty, or any crime that is directly related to the practice of the clinical social work or social worker professions

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Dental Practice Act**

#### **225 ILCS 25/11 (Types of Dental Licenses) (Section scheduled to be repealed on January 1, 2016)**

(c) Temporary training licenses. Persons who wish to pursue specialty or other advanced clinical educational programs in an approved dental school or a hospital situated in this State, or persons who wish to pursue programs of specialty training in dental public health in public agencies in this State, may receive without examination, in the discretion of the Department, a temporary training license. In order to receive a temporary training license under this subsection, an applicant shall furnish satisfactory proof to the Department that:

(1) The applicant is at least 21 years of age and is of good moral character. In determining moral character under this Section, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate as bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **225 ILCS 25/23 (Refusal, revocation or suspension of dental license)(Section scheduled to be repealed on January 1, 2016)**

The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including imposing fines not to exceed \$10,000 per violation, with regard to any license for any one or any combination of the following causes:

(12) Conviction by plea of guilty or nolo contendere finding of guilt, jury verdict, or entry of judgment or by sentencing for any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United State that (i) is a felony under the laws of this State or (ii) is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of dentistry.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **225 ILCS 25/24 (Refusal, Suspension or Revocation of Dental Hygienist License) (Section scheduled to be repealed on January 1, 2016)**

The Department may refuse to issue or renew or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including imposing fines not to exceed \$10,000 per violation, with regard to any dental hygienist license for any one or any combination of the following causes:

(9) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any

jurisdiction of the United States that (i) is a felony or (ii) is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of dental hygiene.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Dietetic and Nutrition Services Practice Act.**

**225 ILCS 30/95 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2023)**

(1) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license or certificate for any one or combination of the following causes:

(c) Conviction by plea of guilty or nolo contendere, finding of guilty, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Environmental Health Practitioner Licensing Act**

**225 ILCS 37/35 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2019)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action with regard to any license issued under this Act as the Department may consider proper, including the imposition of fines not to exceed \$5,000 for each violation, for any one or combination of the following causes:

(3) Conviction of any felony under the laws of any U.S. jurisdiction, any misdemeanor an essential element of which is dishonesty, or any crime that is directly related to the practice of the professions.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Funeral Directors and Embalmers Licensing Code**

**225 ILCS 41/15-75 (Violations; grounds for discipline; penalties) (Section scheduled to be Repealed on January 1, 2023)**

(b) The Department may refuse to issue or renew, revoke, suspend, place on probation or administrative supervision, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license under the Code for any one or combination of the following:

(2) Conviction by plea of guilty or nolo contendere, finding of guilty, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any

jurisdiction of the United States; (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the professions.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Home Medical Equipment and Services Provider License Act**

**225 ILCS 51/75 (Refused issuance, suspension, or revocation of license) (Section scheduled to be repealed on January 1, 2018)**

The Department may refuse to issue, renew, or restore a license, or may revoke, suspend, place on probation, reprimand, impose a fine not to exceed \$10,000 for each violation, or take other disciplinary or non-disciplinary action as the Department may deem proper with regard to a licensee for any one or combination of the following reasons:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Marriage and Family Therapy Licensing Act**

**225 ILCS 55/85 (Refusal, revocation, or suspension) (Section scheduled to be repealed on January 1, 2018)**

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any licensee for any one or combination of the following causes:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Massage Licensing Act**

**225 ILCS 57/15 (Licensure requirements) (Section scheduled to be repealed on January 1, 2022)**

(a) Persons engaged in massage for compensation must be licensed by the Department. The Department shall issue a license to an individual who meets all of the following requirements:

(2) The applicant is at least 18 years of age and of good moral character. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor or any crime that is directly related to the practice of the professional. Such a conviction shall not operate automatically as a complete bar to a license, except in the case of any conviction for prostitution, rape, or sexual misconduct, or where the applicant is a registered sex offender.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**225 ILCS 57/45 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2022)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action, as the Department considers appropriate, including the imposition of fines not to exceed \$10,000 for each violation, with regard to any license or licensee for any one or more of the following:

(2) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States; (i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Medical Practice Act**

**225 ILCS 60/9 (Application for license) (Section scheduled to be repealed on December 31, 2013)**

Each applicant for a license shall:

(B) Submit evidence satisfactory to the Department that the applicant:

(1) is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 60/17 (Temporary license) (Section scheduled to be repealed on December 31, 2013)**

Persons holding the degree of Doctor of Medicine, persons holding the degree of Doctor of Osteopathy or Doctor of Osteopathic Medicine, and persons holding the degree of Doctor of Chiropractic or persons who have satisfied the requirements therefor and are eligible to receive such degree from a medical, osteopathic, or chiropractic school, who wish to pursue programs of graduate or specialty training in this State, may receive without examination, in the discretion of the Department, a 3-year temporary license. In order to receive a 3-year temporary license hereunder, an applicant shall submit evidence satisfactory to the Department that the applicant:

(A) Is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements for 2 or 3 individuals licensed under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 60/19      (Licensure by endorsement) (Section scheduled to be repealed on December 31, 2013)**

The Department may, in its discretion, issue a license by endorsement to any person who is currently licensed to practice medicine in all of its branches, or a chiropractic physician, in any other state, territory, country or province, upon the following conditions and submitting evidence satisfactory to the Department of the following:

(B) That the applicant is of good moral Character. The determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under this Act. The Department may also request the applicant to submit, and may consider as evidence of moral character, endorsements from 2 or 3 individuals licensed under this Act.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 60/22      (Disciplinary action) (Section scheduled to be repealed on December 31, 2013)**

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act to practice medicine, or a chiropractic physician, including imposing fines not to exceed \$10,000 for each violation, upon any of the following grounds:

(3) A plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of any crime that is a felony.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Naprapathic Practice Act**

**225 ILCS 63/110      (Grounds for disciplinary action; refusal, revocation, suspension) (Section scheduled to be repealed on January 1, 2023)**

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any licensee or license for any one or combination of the following causes:

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment, or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Nurse Practice Act**

**225 ILCS 65/55-10 (Qualifications for LPN licensure) (Section scheduled to be repealed on January 1, 2018)**

(j) The Department may refuse to issue an applicant a temporary license authorized pursuant to this Section if, within 14 working days following its receipt of an application for a temporary license, the Department determines that:

(1) the applicant has been convicted of a crime under the laws of a jurisdiction of the United States that is: (i) a felony; or (ii) a misdemeanor directly related to the practice of the profession, within the last 5 years

**Restriction type:** Discretionary

**Restriction duration:** Within the last 5 years

**225 ILCS 65/55-20 (Restoration of LPN license; temporary permit) (Section scheduled to be repealed on January 1, 2018)**

(f) The Department may refuse to issue to an applicant a temporary permit authorized under this Section if, within 14 working days after its receipt of an application for a temporary permit, the Department determines that:

(1) the applicant has been convicted within the last 5 years of any crime under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Within the last 5 years

**Nurse Practice Act**

**225 ILCS 65/60-10 (Qualifications for RN licensure) (Section scheduled to be repealed on January 1, 2018)**

(h) The Department may refuse to issue an applicant a temporary license authorized pursuant to this Section if, within 14 working days after its receipt of an application for a temporary license, the Department determines that:

(1) The applicant has been convicted of a crime under the laws of a jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor directly related to the practice of the profession, within the last 5 years

**Restriction type:** Discretionary

**Restriction duration:** Within the last 5 years

**225 ILCS 65/60-15 (Registered nurse externship permit) (Section scheduled to be repealed on January 1, 2018)**

(b) An applicant shall be qualified to receive a nurse externship permit if that applicant:

(9) Has not violated the provisions of Section 70-5 of this Act. The Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate as an absolute bar to licensure.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 65/60-25 (Restoration of RN license; temporary permit) (Section scheduled to be Repealed on January 1, 2018)**

f) The Department may refuse to issue to an applicant a temporary permit authorized under this Section if, within 14 working days after its receipt of an application for a temporary permit, the Department determines that:

(1) The applicant has been convicted within the last 5 years of any crime under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor directly related to the practice of the profession

**Restriction Type:** Discretionary

**Restriction duration:** Within the last 5 years

**ADVANCED PRACTICE NURSES**

**225 ILCS 65/65-5 (Qualifications for APN licensure)(Section scheduled to be repealed on January 1, 2018)**

(b) An applicant for licensure to practice as an advanced practice nurse must do each of the following:

(5) Have not violated the provisions of this Act concerning the grounds for disciplinary action. The Department may take into consideration any felony conviction of the applicant, but such a conviction may not operate as an absolute bar to licensure

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**225 ILCS 65/65-20 (Restoration of APN license; temporary permit) (Section scheduled to be repealed on January 1, 2018)**

(f) The Department may refuse to issue to an applicant a temporary permit authorized under this Section if, within 14 working days after its receipt of an application for a temporary permit, the Department determines that:

(1) The applicant has been convicted within the last 5 years of any crime under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Within the last 5 years

**Nurse Practice Act**

**225 ILCS 65/70-5 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including fines not to exceed \$10,000 per violation, with regard to a license for any one or combination of the causes set forth in subsection (b) below. All fines collected under this Section shall be deposited in the Nursing Dedicated and Professional Fund.



(b) Grounds for disciplinary action include the following:

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States;

(i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Occupational Therapy Practice Act**

#### **225 ILCS 75/19**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper, including fines not to exceed \$2,500 for each violation, with regard to any license for any one or combination of the following:

(3) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or which is a misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of occupational therapy

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Optometric Practice Act**

#### **225 ILCS 80/24**

**(Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2017)**

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the causes set forth in subsection (a-3) of this Section. All fines collected under this Section shall be deposited in the Optometric Licensing and Disciplinary Board Fund.

(2) Conviction of or entry of a plea of guilty to any crime under the laws of any U.S. jurisdiction thereof that is a felony or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Orthotics, Prosthetics, and Pedorthics Practice Act**

#### **225 ILCS 84/90**

**(Grounds for discipline) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or renew a license, or may revoke or suspend a license, or may suspend, place on probation, or reprimand a licensee or take other disciplinary or non-disciplinary action as the Department may deem proper, including, but not limited to, the imposition of fines not to exceed \$10,000 for each violation for one or any combination of the following:

(3) Conviction of , or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Pharmacy Practice Act**

**225 ILCS 85/30 (Refusal, revocation, or suspension) (Section scheduled to be repealed on January 1, 2018)**

(a) The Department may refuse to issue or renew, or may revoke a license or registration, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any licensee or registrant for any one or combination of the following causes:

14. The applicant or licensee has been convicted in state or federal court of or entered a plea of guilty, nolo contendere, or the equivalent in a state or federal court to any crime which is a felony or any misdemeanor related to the practice of pharmacy or which an essential element is dishonesty

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Physical Therapy Act**

**225 ILCS 90/8 (Qualifications for licensure as a Physical Therapist) (Section scheduled to be repealed on January 1, 2016)**

(a) A person is qualified to receive a license as a physical therapist if that person has applied in writing, on forms prescribed by the Department, has paid the required fees, and meets all of the following requirements:

(1) He or she is at least 18 years of age and of good moral character. In determining moral character, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate automatically as a complete bar to a license

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 90/8.1 (Qualifications for licensure as a physical therapist assistant) (Section scheduled to be repealed on January 1, 2016)**

A person is qualified to receive a license as a physical therapist assistant if that person has applied in writing, on forms prescribed by the Department, has paid the required fees and:

(1) Is at least 18 years of age and of good moral character. In determining moral character, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate automatically as a complete bar to a license

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 90/17**

The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department deems appropriate, including the issuance of fines not to exceed \$5000, with regard to a license for any one or a combination of the following:

(C) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or which is a misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of the profession; conviction, as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt or a plea of nolo contendere

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Physician Assistant Practice Act****225 ILCS 95/12**

A person shall be qualified for licensure as a physician assistant and the Department may issue a physician assistant license to a person who:

(1) Has applied in writing in form and substance satisfactory to the Department and has not violated any of the provisions of Section 21 of this Act or the rules promulgated hereunder. The Department may take into consideration any felony conviction of the applicant but such conviction shall not operate as an absolute bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 95/21 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, censure or reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed \$10,000 for each violation, for any one or combination of the following causes:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Podiatric Medical Practice Act****225 ILCS 100/24 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

The Department may refuse to issue, may refuse to renew, may refuse to restore, may suspend, or may revoke any license, or may place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed

\$10,000 for each violation upon anyone licensed under this Act for any of the following reasons:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory of the element is dishonesty, or of any crime that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Respiratory Care Practice Act**

**225 ILCS 106/95 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2016)**

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department considers appropriate, including the issuance of fines not to exceed \$5,000 for each violation, with regard to any license for any one or more of the following:

(3) Conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Professional Counselor and Clinical Professional Counselor**

**225 ILCS 107/80 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2023)**

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department deems appropriate, including the issuance of fines not to exceed \$10,000 for each violation, with regard to any license for any one or more of the following:

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Speech-Language Pathology Assistant**

**225 ILCS 110/8.5 (Qualifications for licenses as a speech-language pathology assistant) (Section scheduled to be repealed on January 1, 2018)**

(1) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following causes:

A person is qualified to be licensed as a speech-language pathology assistant if that person has applied in writing on forms prescribed by the Department, has paid the required fees, and meets both of the following criteria:

(1) Is of good moral character. In determining moral character, the Department may take into consideration any felony conviction or plea of guilty or nolo contendere of the applicant, but such a conviction or plea shall not operate automatically as a complete bar to licensure.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above statute

### **Speech-Language Pathology and Audiology**

**225 ILCS 110/16) (Refusal, revocation or suspension of licenses) (Section scheduled to be repealed on January 1, 2018)**

(1) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following causes:

(k) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor of which an essential element is dishonesty, or that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Veterinary Medicine and Surgery Practice Act**

**225 ILCS 115/8 (Qualifications) (Section scheduled to be repealed on January 1, 2014)**

A person is qualified to receive a license if he or she: (1) is of good moral character; (2) has graduated from an accredited college or school of veterinary medicine; and (3) has passed the examination authorized by the Department to determine fitness to hold a license.

In determining moral character under this Section, the Department may take into consideration any felony conviction of the applicant, but such a conviction shall not operate as a bar to obtaining a license. The Department may also request the applicant to submit and may consider as evidence of moral character, endorsements from 2 individuals licensed under this Act.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Veterinary Medicine and Surgery Practice Act**

**225 ILCS 115/25 (Disciplinary actions) (Section scheduled to be repealed on January 1, 2014)**

1. The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including fines not to exceed \$1,000 for each violation, with regard to any license or certificate for any one or combination of the following:

C. Conviction of any crime under the laws of the United States or any state or territory of the United States that is a felony or that is a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the professions.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Perfusionist**

**225 ILCS 125/30 (Application for licensure) (Section scheduled to be repealed on January 1, 2020)**

A person shall be qualified for licensure as a perfusionist if that person:

(2) has not violated a provision of Section 110 of consideration any felony conviction of the applicant, but a conviction shall not operate as an absolute bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 125/105 (Disciplinary actions) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue, renew, or restore a license, or may revoke or suspend a license, or may place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to a person licensed under this Act, including but not limited to the imposition of fines not to exceed \$10,000 for each violation, for one or any combination of the following causes:

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the United States or any state or territory thereof, or any crime that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice as a perfusionist.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act.  
225 ILCS 130/45 (Registration requirements; surgical assistant) (Section scheduled to be repealed on January 1, 2014)**

A person shall qualify for registration as a surgical assistant if he or she has applied in writing on the prescribed form, has paid the required fees, and meets all of the following requirements:

(2) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the United States or any state or territory thereof, or any crime that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice as a perfusionist.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 130/50 (Registration requirement; surgical technologist) (Section scheduled to be repealed on January 1, 2014)**

A person shall qualify for registration as a surgical technologist if he or she has applied in writing on the prescribed form, has paid the required fees, and meets all of the following requirements:

(2) Has not violated a provision of Section 95 of this Act. In addition the Department may take into consideration any felony conviction of the applicant, but a conviction shall not operate as an absolute bar to registration.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 130/75 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2014)**

(a) The Department may refuse to issue, renew, or restore a registration, may revoke or suspend a registration, or may place on probation, censure, reprimand, or take other disciplinary action with regard to a person registered under this Act, including but not limited to the imposition of fines not to exceed \$5,000 for each violation, for any one or combination of the following causes:

(3) Conviction under the laws of a United States jurisdiction of a crime that is a felony or a misdemeanor, an essential element of which is dishonesty, or of a crime that is directly related to the practice as a surgical assistant or surgical technologist.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Genetic Counselor Licensing Act**

**225 ILCS 135/95 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2015)**

(a) The Department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department deems appropriate, including the issuance of fines not to exceed \$1,000 for each violation, with regard to any license for any one or more of the following:

(3) Conviction of any crime under the laws of the United States or any state or territory thereof that is a felony, a misdemeanor, an essential element of which is dishonesty, or a crime that is directly related to the practice of the professions.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Illinois Architecture Practice Act**

**225 ILCS 305/22 (Refusal, suspension and revocation of licenses; Cause) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may, singularly or in combination, refuse to issue, renew or restore, or may suspend, revoke, place on probation, or take other disciplinary or non-disciplinary action as deemed appropriate, including, but not limited to, the imposition of fines not to exceed \$10,000 for each violation, as the Department may deem proper, with regard to a license for any one or combination of the following causes:

(6) conviction of or plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession of architecture

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Interior Design Title Act**

**225 ILCS 310/13 (Refusal, revocation or suspension of registration) (Section scheduled to be repealed on January 1, 2022)**

The Department may refuse to issue, renew, or restore or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper, including fines not to exceed \$5,000 for each violation, with regard to any registration for any one or combination of the following causes:

(h) Conviction in this or another state, or federal court, of any crime which is a felony, if the Department determines, after investigation, that such person has not been sufficiently rehabilitation to warrant the public trust

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Landscape Architecture Act**

**225 ILCS 315/18.1 (Grounds for Discipline) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as deemed appropriate including the impositions of fines not to exceed \$10,000 for each violation, as the Department may deem proper with regard to any license for any one or combination of the following:

(3) Conviction of or plea of guilty or nolo contendere to any crime under the laws of the United States or any state or territory thereof that is a felony, or that is a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Professional Engineering Practice Act**

**225 ILCS 325/24 (Rules of professional conduct; disciplinary or administrative action) (Section scheduled to be repealed on January 1, 2020)**

(a-1) The Department may, singularly or in combination, refuse to issue, renew, or restore a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to a person licensed under this Act, including but not limited to, the imposition of a fine not to exceed \$10,000 per violation upon any person, corporation, partnership, or professional design firm licensed or registered under this Act, for any one or combination of the following causes:



(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of engineering

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **Illinois Professional Land Surveyor Act**

**225 ILCS 330/12 (Qualifications for licensing) (Section scheduled to be repealed on January 1, 2020)**

(a) A person is qualified to receive a license as a Professional Land Surveyor and the Department shall issue a license to a person:

(3) who is of good ethical character, including compliance with the Code of Ethics and Standards of Practice promulgated by rule pursuant to this Act, and has not committed an act or offense in any jurisdiction that would constitute grounds for discipline of a land surveyor licensed under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 330/27 (Grounds for disciplinary action)(Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or renew a license, or may place on probation or administrative supervision, suspend, or revoke any license, or may reprimand or take any disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 per violation, upon any person, corporation, partnership, or professional land surveying firm licensed or registered under this Act for any of the following reasons:

(3) conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which as essential element is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **Illinois Roofing Industry Licensing Act**

**225 ILCS 335/9.1 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2016)**

The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following causes:

(b) conviction or plea of guilty or nolo contendere of any crime under the laws of the United States or any state or territory thereof that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Structural Engineering Practice Act**

#### **225 ILCS 340/11 (Section scheduled to be repealed on January 1, 2020)**

A person is qualified for enrollment as a structural engineer intern or licensure as a structural engineer if that person has applied in writing in form and substance satisfactory to the Department and:

(a) The applicant is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or actions that would constitute grounds for discipline under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

#### **225 ILCS 340/20 (Refusal; revocation; suspension) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including a fine not to exceed \$10,000 for each violation, with regard to any licensee for any one or combination of the following reasons:

(5) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony under the laws of the United States or of any state or territory thereof, or that is a misdemeanor an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Athlete Agents Act**

#### **225 ILCS 401/75 (Grounds for disciplinary action)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following:

(3) Conviction of or entry of a plea of guilty or nolo contendere, finding of guilty, jury verdict, or entry of judgment or by sentencing of any crime, including but not limited to convictions, preceding sentences of supervision, conditional discharge or first offender probation, to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which as essential element is dishonesty, or any crime that is directly related to the practice of the profession.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Auction License Act****225 ILCS 407/10-27 (Registration of Internet Auction Listing Service) (Section scheduled to be repealed on January 1, 2020)**

(d) The Department may refuse to accept a registration which is incomplete or not accompanied by the required fee. The Department may impose a civil penalty not to exceed \$10,000 upon any Internet auction listing service that intentionally fails to register as required by this Section, and may impose such penalty or revoke, suspend, or place on probation or administrative supervision the registration of any Internet auction listing service that:

(2) is convicted of any crime, an essential element of which is dishonesty, fraud, larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game; or is convicted in this or another state of a crime that is a felony under the laws of this State; or is convicted of a felony under the laws of this State; or is convicted of a felony in a federal court

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 407/20-15 (Disciplinary actions; grounds) (Section scheduled to be repealed on January 1, 2020)**

The Department may refuse to issue or renew a license, may place on probation or administrative supervision, suspend, or revoke any license or may reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 for each violation upon anyone licensed under this Act for any of the following reasons:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act****225 ILCS 410/4-7 (Refusal, suspension and revocation of licenses; causes; disciplinary action) (Section scheduled to be repealed on January 1, 2016)**

(1) The Department may refuse to issue or renew, and may suspend, revoke, place on probation, reprimand or take any other disciplinary action as the Department may deem proper, including civil penalties not to exceed \$500 for each violation, with regard to any license for any one, or any combination, of the following causes:

a. Conviction of any crime under the laws of the United States or any state or territory thereof that is (i) a felony, (ii) a misdemeanor, an essential element of which is dishonesty, or (iii) a crime which is related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Cemetery Oversight Act****225 ILCS 411/10-21 (Qualifications for licensure) (Section scheduled to be repealed on January 1, 2021)**

(a) A cemetery authority shall apply for licensure on forms prescribed by the Department and pay the required fee. An applicant is qualified for licensure as a cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. When considering such license, the Department shall take into consideration the following:

(A) the applicant's record of compliance with the Code of Professional Conduct and Ethics, and whether the applicant has been found to have engaged in any unethical or dishonest practices in the cemetery business;

(B) whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or which involves any aspect of the cemetery business, or has been convicted of any felony

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 411/25-10 (Grounds for disciplinary action)(Section scheduled to be repealed on January 1, 2021)**

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$8,000 for each violation, with regard to any license under this Act, for any one or combination of the following:

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 10 years that is a Class X felony or higher or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.

**Restriction type:** Discretionary

**Restriction duration:** Within the last 10 years

**Electrologist Licensing Act****225 ILCS 412/30 (Qualifications for licensure) (Section scheduled to be repealed on January 1, 2014)**

A person shall be qualified for licensure as an electrologist if that person has met all of the following requirements:

(2) has not violated any of the provisions of Section 75 of this Act or the rules promulgated under this Act. The Department shall take into consideration any felony conviction of the applicant, but a conviction shall not operate as an absolute bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 412/75 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2014)**

(a) The Department may refuse to issue or renew and may revoke or suspend a license under this Act, and may place on probation, censure, reprimand, or take other disciplinary action with regard to any licensee under this Act, as the Department may consider proper, including the issuance of fines not to exceed \$5,000 for each violation, for one or any combination of the following causes:

(3) Conviction of any felony under the laws of any U.S. jurisdiction, any misdemeanor an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Illinois Certified Shorthand Reporters Act**

**225 ILCS 415/11 (Section scheduled to be repealed on January 1, 2014)**

A person shall be qualified for certification as a certified shorthand reporter if:

A. That person has applied in writing in form and substance to the Department; and

(2) Is of good moral character, the determination of which shall take into account but not be totally based upon any felony conviction of the applicant

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 415/23 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2014)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem appropriate, including fines not to exceed \$5,000 for each violation, with regard to any license for any one or combination of the following:

(3) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or which is a misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of shorthand reporting

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Collection Agency Act**

**225 ILCS 425/9 (Section scheduled to be repealed on January 1, 2016)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper, including fines not to exceed \$5,000 for a first violation and not to exceed \$10,000 for a second or subsequent violation, for any one or any combination of the following causes:

(2) Conviction of the collection agency or the principals of the agency of any crime under the laws of any U.S. jurisdiction which is a felony, a misdemeanor an essential element of which is dishonesty, or of any crime which directly relates to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Community Association Manager Licensing and Disciplinary Act**

**225 ILCS 427/40 (Qualifications for licensure as a community association manager)  
(Section scheduled to be repealed on January 1, 2020)**

(a) No person shall be qualified for licensure under this Act, unless he or she has applied in writing on the prescribed forms and has paid the required, nonrefundable fees and meets all of the following qualifications:

(5) He or she is of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities that would constitute grounds for discipline under this Act. Good moral character is a continuing requirement of licensure. Conviction of crime may be used in determining moral character, but shall not constitute an absolute bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 427/85 (Grounds for discipline; refusal, revocation, or suspension)(Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any licensee for any one or combination of the following causes:

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 427/155 (Violation; penalties) (Section scheduled to be repealed on January 1, 2020)**

(b) Whenever a licensee is convicted of a felony related to the violations set forth in this Section, the clerk of the court in any jurisdiction shall promptly report the conviction to the Department and the Department shall immediately revoke any license as a community association manager held by that licensee. The individual shall not be eligible for licensure under this Act until at least 10 years have elapsed since the time of full discharge from any sentence imposed for a felony conviction. If any person in making any oath or affidavit required by this Act swears falsely, the person is guilty of perjury and may be punished accordingly.

**Detection of Deception Examiners Act**

**225 ILCS 430/11 (Qualifications for licensure as an examiner) (Section scheduled to be repealed on January 1, 2022)**

A person is qualified to receive a license as an examiner:

(A) Who establishes that he or she is a person of good moral character

In determining good moral character, the Department may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor or any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 430/14 (Section scheduled to be repealed on January 1, 2022)**

a) The Department may refuse to issue or renew or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license for any one or a combination of the following:

(3) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Home Inspector License Act**

**225 ILCS 441/15-10 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2022)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$25,000 for each violation, with regard to any license for any one or combination of the following:

(4) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony (ii) that is a misdemeanor, an essential element of which is dishonestly, or that is directly related to the practice of the profession; or (iii) that is a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Interpreter for the Deaf Licensure Act of 2007**

**225 ILCS 443/115) (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2018)**

(a) The Commission may refuse to issue or renew any license and the Department may suspend or revoke any license or may place on probation, censure, reprimand, or take other disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed \$2,500 for each violation, with regard to any license issued under this Act for any one or more of the following reasons:

(3) Conviction of any crime under the laws of any jurisdiction of the United States that is a felony or a misdemeanor, an essential element of which is dishonesty or that is directly related to the practice of interpreting

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004**

**225 ILCS 447/15-10 (Qualifications for licensure as a private detective) (Section scheduled to be repealed January 1, 2014)**

(a) A person is qualified for licensure as a private detective if he or she meets all of the following requirements:

(3) Is of good moral character. Good character is a continuing requirement of licensure. Conviction of crimes other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/20-10 (Qualifications for licensure as a private alarm contractor) (Section scheduled to be repealed on January 1, 2014)**

(a) A person is qualified for licensure as a private alarm contractor if he or she meets all of the following requirements:

2) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

**Restriction type:** Discretionary

**Restriction duration:** At least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

**225 ILCS 447/25-10 (Qualifications for licensure as a private security contractor) (Section Scheduled to be repealed on January 1, 2014)**

(a) A person is qualified for licensure as a private security contractor if he or she meets all of the following requirements:

(2) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

**Restriction type:** Discretionary

**Restriction duration:** At least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction



**225 ILCS 447/30-10 (Qualifications for licensure as a locksmith) (Section scheduled to be repealed on January 1, 2014)**

(a) A person is qualified for licensure as a locksmith if he or she meets all of the following requirements:

(2) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for the felony conviction

**Restriction type:** Discretionary

**Restriction duration:** At least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

**225 ILCS 447/31-10 (Qualifications for licensure as a fingerprint vendor) (Section scheduled to be repealed on January 1, 2014)**

(a) A person is qualified for licensure as a fingerprint vendor if he or she meets all of the following requirements:

(2) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

(3) Is of good moral character. Good moral character is a continuing requirement of licensure. Conviction of crime other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure, except where the applicant is a registered sex offender

**Restriction type:** Discretionary

**Restriction duration:** At least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction

**225 ILCS 447/35-30 (Employee requirements) (Section scheduled to be repealed on January 1, 2014)**

All employees of a licensed agency, other than those exempted, shall apply for a permanent employee registration card. The holder of an agency license issued under this Act, known in this Section as "employer", may employ in the conduct of his or her business employees under the following provisions:

(b) No person may be employed by a private detective agency, private security contractor agency, private alarm contractor agency, fingerprint vendor agency, or locksmith agency under this Section until he or she has executed and furnished to the employer, on forms furnished by the Department, a verified statement to be known as "Employee's Statement" setting forth:

(4) Any conviction of a felony or misdemeanor

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/35-35 (Requirement of a firearm control card) (Section scheduled to be repealed on January 1, 2014)**

(f) The Department may, in addition to any other disciplinary action permitted by this Act, refuse to issue, suspend, or revoke a firearm control card if the applicant or holder has been convicted

of any felony or crime involving the illegal use, carrying, or possession of a deadly weapon or for a violation of this Act or rules promulgated under this Act. The Department shall refuse to issue or shall revoke a firearm control card if the applicant or holder fails to possess a valid firearm owners identification card. The Director shall summarily suspend a firearm control card if the Director finds that its continued use would constitute an imminent danger to the public. A hearing shall be held before the Board within 30 days if the Director summarily suspends a firearm control card.

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/35-41 (Requirement of a canine handler authorization card) (Section scheduled to be repealed on January 1, 2014)**

(d) The Department may, in addition to any other disciplinary action permitted by this Act, refuse to issue, suspend, or revoke a canine handler authorization card if the applicant or holder has been convicted of any felony or misdemeanor involving cruelty to animals or for a violation of this Act or rules adopted under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/35-43 (Requirement of a canine trainer authorization card; qualifications)(Section scheduled to be repealed on January 1, 2014)**

(d) The Department may, in addition to any other disciplinary action permitted by this Act, refuse to issue, suspend, or revoke a canine trainer authorization card if the applicant or holder has been convicted of any felony or misdemeanor involving cruelty to animals or for a violation of this Act or rules promulgated under this Act

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/40-10 (Disciplinary sections) (Section scheduled to be repealed on January 1, 2014)**

(a) The Department may deny issuance, refuse to renew, or restore or may reprimand, place on probation, suspend, revoke, or take other disciplinary or non-disciplinary action against any license, registration, permanent employee registration card, canine handler authorization card, canine trainer authorization card, or firearm control card, and may impose a fine not to exceed \$10,000 for each violation for any of the following:

(4) Conviction of or entry of a plea of guilty or nolo contendere or an admission of guilt in Illinois, another state, or other jurisdiction of any crime that is a felony under the laws of Illinois; a felony in a federal court; a misdemeanor, an essential element of which is dishonesty; or directly related to professional practice

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 447/45-50 (Unlicensed practice; fraud in obtaining a license) (Section scheduled to be repealed on January 1, 2014)**

(b) Whenever a licensee is convicted of a felony related to the violations set forth in this Section, the clerk of the court in any jurisdiction shall promptly report the conviction to the Department and the Department shall immediately revoke any license as a private detective, private security

contractor, private alarm contractor, fingerprint vendor, or locksmith held by that licensee. The individual shall not be eligible for licensure under this Act until at least 10 years have elapsed since the time of full discharge from any sentence imposed for a felony conviction. If any person in making any oath or affidavit required by this Act swears falsely, the person is guilty of perjury and may be punished accordingly.

**Restriction type:** Discretionary

**Restriction duration:** The individual shall not be eligible for licensure under this Act until at least 10 years have elapsed since the time of full discharge from any sentence imposed for a felony conviction

### **Illinois Public Accounting Act**

#### **225 ILCS 450/20.01 (Grounds for discipline; licensure or registration) (Section scheduled to be repealed on January 1, 2014)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, or reprimand any registration or registrant, any license or licensee, place a licensee or registrant on probation for a period of time subject to any conditions the Department may specify including requiring the licensee or registrant to attend continuing education courses or to work under the supervision of another licensee or registrant, impose a fine not to exceed \$5,000 for each violation, restrict the authorized scope of practice, or require a licensee or registrant to undergo a peer review program, for any one or more of the following:

(4) Being convicted or found guilty, regardless of adjunction, of a crime in any jurisdiction which directly relates to the practice of public accounting or the ability to practice public accounting or the ability to practice public accounting or as a Registered Certified Public Accountant

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Real Estate License Act of 2000**

#### **225 ILCS 454/5-25 (Good moral character) (Section scheduled to be repealed on January 1, 2020)**

When an applicant has had his or her license revoked on a prior occasion or when an applicant is found to have committed any of the practices enumerated in Section 20-20 of this Act or when an applicant has been convicted of or enters a plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony involving moral turpitude in any court of competent jurisdiction in this or any other state, district, or territory of the United States or of a foreign country, the Board may consider the prior revocation, conduct, or conviction in its determination of the applicant's moral character and whether to grant the applicant a license. In its consideration of the prior revocation, conduct, or conviction, the Board shall take into account the nature of the conduct, any aggravating or extenuating circumstances, the time elapsed since the revocation, conduct, or conviction, the rehabilitation or restitution performed by the applicant, and any other factors that the Board deems relevant. When an applicant has made a false statement of material fact on his or her application, the false statement may in itself be sufficient grounds to revoke or refuse to issue a license

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**225 ILCS 454/20-20 (Grounds for discipline) (Section scheduled to be repealed on January 1, 2020)**

(a) The Department may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, reprimand, or take any other disciplinary or non-disciplinary action as the Department may deem proper and impose a fine not to exceed \$25,000 upon any licensee or applicant under this Act or any person who holds himself or herself out as an applicant or licensee or against a licensee in handling his or her own property, whether held by deed, option, or otherwise, for any one or any combination of the following causes:

(2) The conviction of or plea of guilty or plea of nolo contendere to a felony or misdemeanor in this State or any other jurisdiction; or the entry of an administrative sanction by a government agency in this State or any other jurisdiction. Action taken under this paragraph (2) for a misdemeanor or an administrative sanction is limited to a misdemeanor or administrative sanction that has as an essential element dishonesty or fraud or involves larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Real Estate Appraiser Licensing Act of 2002**

**225 ILCS 458/15-10 (Grounds for disciplinary action) (Section scheduled to be repealed on January 1, 2022)**

(a) The Department may suspend, revoke, refuse to issue, renew, or restore a license and may reprimand place on probation or administrative supervision, or take any disciplinary or non-disciplinary action, including imposing conditions limiting the scope, nature, or extent of the real estate appraisal practice of a licensee or reducing the appraisal rank of a licensee, and may impose an administrative fine not to exceed \$25,000 for each violation upon a licensee for any one or combination of the following:

(4) Conviction by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony; or (ii) that is a misdemeanor, an essential element of which is dishonesty, or that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Professional Geologist Licensing Act**

**225 ILCS 745/80 (Disciplinary action) (Section scheduled to be repealed on January 1, 2016)**

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including fines not to exceed \$5,000 for each violation, with regard to any license for any one or combination of the following:

(3) Conviction of any crime under the laws of the United States or any state or territory of the United States that is a felony or that is a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Safety Deposit License Act**

#### **240 ILCS 5/19**

No applicant shall be issued a license who:

2. Has been convicted of a felony

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Humane Euthanasia in Animal Shelters Act.**

#### **510 ILCS 72/35 (Technician certification; duties)**

(a) An applicant for certification as a euthanasia technician shall file an application with the Department and shall:

- (2) Be of good moral character. In determining moral character under this Section, the Department may take into consideration whether the applicant has engaged in conduct or activities that would constitute grounds of discipline under this Act

#### **510 ILCS 72/65 (Refused issuance, suspension, or revocation of certification)**

The Department may refuse to issue, renew, or restore a certification or may revoke or suspend a certification, or place on probation, reprimand, impose a fine not to exceed \$10,000 for each violation, or take other disciplinary or non-disciplinary action as the Department may deem proper with regard to a certified euthanasia agency or a certified euthanasia technician for any one or combination of the following reasons:

- (7) in the case of a euthanasia technician, being convicted of or entering a plea of guilty or nolo contendere to any crime that is (i) a felony under the laws of the United States or any state or territory thereof, (ii) a misdemeanor under the laws of the United States or any state or territory an essential element of which is dishonesty, or (iii) directly related to the practice of the profession

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

### **Illinois Controlled Substances Act**

#### **720 ILCS 570/303**

a) The Department of Financial and Professional Regulation shall license an applicant to manufacture, distribute or dispense controlled substances included in Sections 202, 204, 206, 208, 210 and 212 of this Act or purchase, store, or administer euthanasia drugs unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the Department of Financial and Professional Regulation shall consider the following:

- (3) any convictions of the applicant, or the designated agent of the applicant where applicable, under any law of the United States or of any State relating to any controlled substance.

**Restriction type:** Mandatory

**Restriction duration:** Duration not mentioned in statute

**720 ILCS 570/304**

(a) A registration under Section 303 to manufacture, distribute, or dispense a controlled substance or purchase, store, or administer euthanasia drugs may be denied, refused renewal, suspended, or revoked by the Department of Financial and Professional Regulation, and a fine of no more than \$10,000 per violation may be imposed on the applicant or registrant, upon a finding that the applicant or registrant:

(4) has been convicted of bribery, perjury, or other infamous crime under the laws of the United States or of any State

**Restriction type:** Discretionary

**Restriction duration:** Duration not mentioned in statute

**Discrimination in Sale of Real Estate Act****720 ILCS 590/3**

Whenever a person is convicted of any violation of this Act, the clerk of the court shall report such conviction to the Department of Professional Regulation, which shall thereupon revoke any certificate of registration as a real estate broker or real estate salesman held by such person

**Restriction type:** Mandatory

**Restriction duration:** Duration not mentioned in statute

**Real Estate Timeshare Act of 1999****765 ILCS 101/15-25 (Disciplinary action; civil penalty)**

The Department may refuse to issue or renew any registration, or revoke or suspend any registration or place on probation or administrative supervision, or reprimand any registrant, or impose a civil penalty not to exceed \$25,000, for any one or any combination of the following causes:

(2) a conviction of the registrant or any principal of the registrant of (i) a felony under the laws of any U.S. jurisdiction, (ii) a misdemeanor under the laws of any U.S. jurisdiction if an essential element of the offense is dishonesty, or (iii) a crime under the laws of any U.S. jurisdiction if any crime relates directly to the practice of the profession regulated by this Act

**AGENCY contracting restrictions based on criminal history:**

Not mentioned in the agency report

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

All applicants must disclose their criminal history upon application, and the Department evaluates the circumstances and renders a decision on whether the information disqualifies the individual from licensure, registration, or practice. In a minority of examples, there are crimes that may act as an absolute bar to licensing, but for most every profession, the Department evaluates each case on an individual basis

# ILLINOIS DEPARTMENT ON AGING

## Human Services/Executive Agency

**FY14 Headcount: 170**

<http://www.state.il.us/aging/>

### **Summary of Agency Operations**

The Illinois Department on Aging administers a comprehensive service delivery system to serve the state's growing population of 2.3 million older adults and their caregivers, in coordination with 13 Area Agencies on Aging and various contracted direct service providers. The Department operates home and community-based services to help older adults remain independent, including the Community Care Program, Elder Abuse and Neglect Program and the Long-Term Care Ombudsman Program.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None

#### **Statutory restrictions applicable to internal hiring**

None

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

##### **2) Background check review procedure**

None, per agency's report to the Task Force

#### **Exemption, waiver, or review mechanisms**

N/A

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

0

### **Occupational Licensing, Certification, Regulation**

#### **Occupational licenses issued subject to criminal history restrictions**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

#### **Administrative Rule: Title 89, Chapter II, Part 240, Section 240.1310**

**Section 240.1310 Standard Contractual Requirements for Care Coordination Units and Providers.** 6) A non-governmental agency shall certify that: A) CCU/provider or any of its officers, agents or employees have not been **convicted of bribery or attempting to bribe an officer or employee of the State of Illinois** nor made an admission of guilt of such conduct which is a matter of record

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

#### **Title 89, Chapter II, Part 290, Section 290.305 Section 290.305 Criminal Background**

**Checks.** a) The Department will make appropriate arrangements with the Illinois State Police.

## **Summary of Employment Restrictions from Agency Report**

Per the agency's report to the Task Force, the agency 'does not handle employment restrictions'.



# ILLINOIS LABOR RELATIONS BOARD

## Government Services/Executive Agency

FY14 Headcount: 29

<http://www.state.il.us/ilrb/>

### **Summary of Agency Operations**

The Illinois Labor Relations Board conducts representation elections; investigates and remedies unfair labor practice; and processes information regarding arbitration and mediation that will serve parties in resolving labor-related disputes. The board also conducts emergency investigations, upon demand, of public employee strikes and strike threats to determine whether judicial proceedings are warranted to restrain or prevent strike activity that imperils the health and safety of the public.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None specified; all applicants must pass criminal background check, per agency's report to the Task Force.

Attorneys hired must have valid Illinois law license

#### **Statutory/regulatory restrictions applicable to internal hiring**

#### **Supreme Court of Illinois, Rules on Admission and Discipline of Attorneys, Article VII, Part A Admission to the Bar, Rule 701 General Qualifications**

(a) Subject to the requirements contained in these rules, persons may be admitted or conditionally admitted to practice law in this State by the Supreme Court if they are at least 21 years of age, **of good moral character** and general fitness to practice law, and have satisfactorily completed examinations on academic qualification and professional responsibility as prescribed by the Board of Admissions to the Bar or have been licensed to practice law in another jurisdiction and have met the requirements of Rule 705.

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

##### **2) Background check review procedure**

All candidates, including attorneys, are subject to a criminal history record check conducted by the State Police, per agency's report to the Task Force

Criteria and procedures used to determine disqualifying offenses not specified in report

#### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

7

None found disqualified

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

All candidates for employment with the Illinois Labor Relations Board must meet the qualifications for the position and pass a criminal background check by the Illinois State Police.

Seven applicants underwent criminal background checks in the last two years. None were disqualified and none sought waiver.

# ILLINOIS EMERGENCY MANAGEMENT AGENCY

## Public Safety/Executive Agency

**FY14 Headcount: 228**

<http://www.state.il.us/iema/>

### **Summary of Agency Operations**

The Illinois Emergency Management Agency (IEMA) prepares, protects and assists the citizens of the State of Illinois through planning, prevention, training, mitigation, response and recovery to all hazards, natural or manmade. IEMA coordinates the state's disaster response, ensures state resilience to disasters through an all hazards approach, leads Illinois homeland security strategy and administers dozens of programs to protect the state from the potentially harmful effects of ionizing radiation.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Radon Measurement Professional/Technician

Radon Mitigation Professional/Technician

Medical Radiation Technologist

Industrial Radiographer

Persons that possess radioactive material

#### **This agency is subject to personnel or non-personnel code.**

Personnel code agency

#### **Statutory Restrictions Applicable to Internal Hiring:**

N/A

#### **Year restriction was adopted**

N/A

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes

##### **(2) Background check review procedure:**

**Radon Measurement Professional Technician, Radon Mitigation Professional/Technician, Medical Radiation Technologist:**

The Agency evaluates all qualifications for licensure including criminal history. The Agency focuses on the nature of the offense and the applicant's progress toward rehabilitation to warrant the public trust. A demonstration by the applicant of no further criminal history since the initial conviction and they are pursuing change and stability in their life gives a strong indication of rehabilitation. Time lapsed does not necessarily mean rehabilitation, it is upon the applicant to demonstrate that they no longer engage in conduct detrimental to themselves and others and that they have the ability to follow the regulations and standards established by the Agency for the

licensed activity. The Agency does not grant licensure for anyone still on parole/probation as rehabilitation to warrant the public trust cannot be established while still under supervision of the courts.

All applicants are required to check on the agency application whether they have ever been convicted of a felony. In addition, the Agency is currently using Westlaw's Clear to search each applicant's profile to determine whether an applicant has a conviction that was not revealed on the application.

If an applicant indicates they were convicted of a felony or if a search of Clear shows a conviction, the applicant is asked to provide further information concerning the conviction. If the applicant failed to reveal the conviction on the application, the applicant will be denied licensure for causing a material misstatement or misrepresentation to be made in the application since it impaired the Agency's ability to assess and evaluate the applicant's qualifications for a license. Once further information is obtained from the applicant, the information provided by the applicant and any further information independently by the Agency is reviewed by the Agency's legal office to determine whether the applicant has been sufficiently rehabilitated to warrant the public trust.

**Industrial Radiographer Certification:**

Includes the same requirements of the above roles (Radon Measurement Professional Technician, Radon Mitigation Professional/Technician, Medical Radiation Technologist). In addition, the employer must determine whether their employees are trustworthy and reliable in order to allow the individual to perform industrial radiography. This process involves a background check and fingerprinting. The Agency is not involved in this process except during an inspection of the employer to ensure that the determination was made prior to giving the individual access to radioactive material.

**Radioactive material licenses:**

The agency uses a system of background checks which can be considered security checks to ensure the applicant for this license is trustworthy to possess the material. The Agency does not want an individual to obtain a license to possess radioactive material that may use that material for unsavory purposes. The Agency requires all applicants to provide security related information during the application process. If the Agency is not familiar with an applicant, the Agency will conduct a due diligence investigation, which may include a background check, and criminal activity may be reviewed to determine whether public health and safety may be affected. This is done on a case by case basis and issuance of a license will only be given to those individuals/facilities that do not pose a risk to security or pose a risk for theft per 32.Ill.Adm. Code 330.300.

In addition, pursuant to a US Nuclear Regulatory Commission order and license conditions placed on Agency licensees per 32 Ill. Adm. Code 330, the licensee must conduct background checks on employees (e.g., industrial radiographers). The licensee employers must determine that the employee is "trustworthy and reliable" to handle radioactive material which includes a criminal history check and fingerprinting.

**Exemption, waiver, or review mechanisms**

Upon determination that the applicant does not meet the standard for certification, the Agency sends a denial letter. The letter provides information regarding the basis for the denial and provides the opportunity for an administrative hearing. Procedures for requesting a hearing are contained in the Agency's rules entitled "Administrative Hearing" 32 Ill. Adm. Code 200. An individual may appeal a Department hiring decision by submitting a written request for hearing within thirty days of the date of receiving the hiring decision letter.

**Total number of people who underwent a background check**

The total number of people currently employed in the occupation whose licensure required criminal history disclosure, background checks, or restrictions:

Medical Radiation Technologist: 14,117

Industrial Radiographer: 1,300

Radon: 382

No individual underwent a criminal history background check within the time frame of the Task Force requirement. The Agency did not do specific background checks but relied on the disclosure of the individual.

All individuals (100%) were merely required to disclose their criminal history without a criminal history background check.

The number of individuals who were found disqualified based on criminal history disclosure by the applicant: 2-3 for industrial radiographers, 0 for medical radiation technologists, and 1 for radon.

No individuals were found disqualified based on a criminal history background check.

No individuals sought or were denied a waiver or exemption process.

3-4 individuals were found disqualified where no waiver or exemption process is available.

1 individual was found disqualified where no waiver or exemption process was available and who sought administrative review and found qualified.

**AGENCY occupational licensing restrictions based on criminal history:****Licensing for Radioactive Material****420 ILCS 44/45      (Grounds for disciplinary action)****Administrative Code: Title 32, Chapter II, Subchapter B, Part 330, Section 330.500. Modification and Revocation of Licenses**

b. In accordance with 32 Ill. Adm. Code 200, any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under provisions of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means that would warrant the Agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act, or of the license, or of any rule, regulation, or order of the Agency.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Accrediting Persons in the Practice of Medical Radiation Technology**

### **Administrative Code: Title 32, Chapter II, Subchapter B, Part 401, Section 401.120. Suspension, Revocation and Denial of Accreditation**

a. The Agency may act to suspend or revoke an individual's accreditation, or refuse to issue or renew accreditation, for any one or a combination of the following causes:

5) Having been convicted of a crime that is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Agency that he/she has been sufficiently rehabilitated to warrant the public trust

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Certification of Individuals to Perform Individual Radiography**

### **Administrative Code: Title 32, Chapter II, Subchapter B, Part 405, Section 405.140. Suspension, Revocation and Denial of Certification**

a. The Agency may act to suspend or revoke an individual's certification or refuse to issue or renew certification, for any one or a combination of the following causes:

7. Having been convicted of a crime which is a felony under the laws of this State or conviction of a felony in a federal court, unless the individual demonstrates to the Agency that he/she has been sufficiently rehabilitated to warrant the public trust

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Regulations for Radon Service Providers**

### **Administrative Code: Title 32, Chapter II, Subchapter B, Part 422, Section 422.120. Disciplinary Action by the Agency**

a. The Agency may act to suspend or revoke a person's license, may issue a civil penalty, or may issue a civil penalty in addition to suspending or revoking a person's license for any one or a combination of the following causes:

3. Having been convicted in any state of a crime that is a felony under the laws of this State or having been convicted of a felony in a federal court, unless such individual demonstrates to the Agency that he/she has been sufficiently rehabilitated to warrant the public trust

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

## **Employment Contracting Restrictions**

None

## **Summary of Employment Restrictions from Agency Report:**

The Agency follows the employment requirements of Central Management Services and does not have any Agency-specific restrictions for employment. All candidates must meet the position's qualifications and pass a criminal background check due to the fact that our Agency personnel deal with matters of Homeland Security and handle retroactive material. There are

three attorneys who must also possess a current valid Illinois law license and be in good standing with the Illinois Attorney Registration and Disciplinary Commission.

# **ENVIRONMENTAL PROTECTION AGENCY**

**Environment and Business Regulation Agency/Executive Agency**

**FY14 Headcount: 895**

<http://www.epa.state.il.us/>

## **SUMMARY OF AGENCY OPERATIONS**

The Environmental Protection Agency (EPA) protects the quality of the air, land and water. To assure compliance, EPA issues nearly 7,400 permits to industrial facilities, landfills, public water supplies and wastewater treatment plants, and performs more than 6,600 compliance inspections. The agency finds approximately 1,500 violations each year. EPA's role in making grants to improve our drinking and wastewater systems will create thousands of jobs and protect our most precious natural resource.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None. The Illinois EPA does not have employment restrictions based on criminal records.

#### **This agency is subject to personnel or non-personnel code.**

Personnel code agency

#### **Statutory Restrictions Applicable to Internal Hiring:**

None

#### **Year restriction was adopted**

N/A

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes; CMS 284 "Request for Release of Information" form authorizes the Illinois State Police "to release information relative to the existence or nonexistence of any criminal record which it might have concerning me to any Department of the State of Illinois solely to determine my suitability for employment or continued employment with the State of Illinois."

The CMS-284 form also asks the employee to complete the applicant background information section which asks the applicant if they have ever been convicted of a criminal offense other than a minor traffic violation. If the answer is "yes" a detailed statement for each occurrence must be provided.

##### **(2) Background check review procedure**

None.

#### **Exemption, waiver, or review mechanisms**

None.



**Total number of people who underwent a background check**

None.

**AGENCY occupational licensing restrictions based on criminal history:**

**Licensing of Industrial Hygienists**

**Administrative Code: Title 35, Chapter II, Part 184, Sub part B, Section 184.200. Application Requirements**

b. Any person who seeks a license as a Licensed Industrial Hygienist shall submit a complete application to the Agency in which the applicant provides all of the following:

1) A statement that the applicant has not been convicted of a felony in the State of Illinois, any other state, or in any Federal Court; or, if the applicant has been convicted of a felony, the felony convictions are adequately described, as required in Section 184.201 of this Subpart

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 35, Chapter II, Part 184, Sub part B, Section 184.201. Felony Convictions of Applicants**

Any applicant who has been convicted of a felony in the State of Illinois, any other State, or any Federal Court, shall, along with the application, provide a written description of the felony charge for which the applicant was convicted, how long ago the conviction occurred, the jurisdiction in which the applicant was convicted, the number of the case in which the conviction was entered, and any mitigating factors which the applicant believes are relevant to the consideration of the Agency.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 35, Chapter II, Part 184, Sub part E, Section 184.503. Grounds for Denial, Refusal to Renew, Suspension and Revocation**

a. The Agency may deny, refuse to renew, suspend or revoke any license for any one or any combination of the following causes:

4. Conviction in Illinois or another state of any crime which is a felony under the laws of Illinois or that other state or conviction of a felony in a federal court;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Landfill Operator Certification**

**Administrative Code: Title 68, Chapter V, Part 870, Sub part B, Section 870.220. Class B Certificate**

c. When an applicant has indicated on the application that any of the grounds listed in Section 870.515(a) has occurred, the applicant shall provide with the application the following:

1. A copy of any final administrative or judicial determination, made after opportunity for an adversarial proceeding, that the applicant has:

B) Been convicted in Illinois or another state of any crime which is a felony under Illinois law, or been convicted of a felony in a federal court;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Employment Contracting**

#### **Contracting restrictions based on criminal history**

#### **Summary of Employment Restrictions from Agency Report**

The Illinois EPA does not have employment restrictions based on criminal records.

All potential employees are required to sign CMS-284, Request for Release of Information, which authorizes an Illinois State Police background report. The application for employment also asks for disclosure of convictions other than traffic violations. If yes, a detailed statement for each occurrence must be provided.

(see **CRIMINAL CODE OF 2012**)

# ILLINOIS FINANCE AUTHORITY

## Economic Development and Infrastructure/Executive Agency

**FY14 Headcount: 17**

<http://www.il-fa.com/>

### **Summary of Agency Operations**

The Illinois Finance Authority (IFA) provides capital asset financing to 501(c)(3) organizations and manufacturing companies that retain and create jobs for the people of Illinois. IFA is the primary Illinois delivery system for federal tax benefits that support discounted financing of capital projects by qualified borrowers under the federal tax code (conduit debt). In addition to issuing conduit debt, IFA administers certain state-backed loan guarantee and credit enhancement programs (e.g., agricultural guarantees and moral obligations), as well as a limited number of loan programs.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None specified; all positions answer criminal convictions questions on the application

#### **Statutory restrictions applicable to internal hiring**

None

#### **Agency policy restrictions applicable to internal hiring**

Applicants answer application question regarding any **DUI conviction**

**Restriction type:** Discretionary, per agency's report to the Task Force

**Restriction duration:** Not specified

Applicants answer application question regarding **felony conviction in past 7 years**

**Restriction type:** Discretionary, per agency's report to the Task Force

**Restriction duration:** Past 7 years

#### **System of personnel administration**

**Illinois Finance Authority Act [20 ILCS 3501/801-30(c)]**

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (ADP TotalSource, Inc. application used), per agency's report to the Task Force  
Applicant is asked "Do you have a DUI conviction?" and "Have you ever been convicted of a felony in the past seven years?"

##### **2) Background check review procedure**

No specific procedure, except to be in compliance with its Equal Employment Opportunity and Affirmative Action plans, per agency's report submitted to the Task Force.

**Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to the Task Force

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting****Contracting restrictions based on criminal history****Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

The Illinois Finance Authority (IFA) application asks for disclosure of any suspensions and revocations of his/her license, DUI and DWI convictions and convictions of a felony within the last seven years. Neither the IFA nor the human resources management company it uses (ADP TotalSource, Inc.) has a procedure to determine and review whether an individual's criminal history disqualifies that individual from employment. The Authority ensures through its Equal Employment Opportunity and Affirmative Action plan the absence of any artificial barriers, including but not limited to, discrimination based on unfavorable military discharge and/or arrest record, to equal employment at the Authority.

# ILLINOIS GAMING BOARD

## Environment and Business Regulations/Executive Agency

**FY14 Headcount: 220**

<http://www.illinoisgamingsystems.com/category/licensing-support/local-liquor-boards/>

### **Summary of Agency Operations**

The Illinois Gaming Board (IGB) administers a regulatory and tax collection system for gaming in Illinois, as mandated by the Riverboat Gambling Act, the Video Gaming Act and all applicable administrative rules. IGB assures the integrity of gaming in Illinois through strict regulatory oversight of casino operators, and licensing of individuals, entities and employees of gaming operations. IGB staff conducts audit, legal, enforcement, investigative, operational and financial analysis activities as mandated by law.

### **Internal Hiring**

#### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

All Gaming Board applicants are subject to background investigation, fingerprint screening (state and federal), and drug testing (hair and urine) for investigative staff.

#### **Statutory, regulatory, agency policy restrictions applicable to internal hiring**

##### **Riverboat Gambling Act [230 ILCS 10/5] (Gaming Board)**

No person shall be a member of the Board who is **not of good moral character or who has been convicted of, or is under indictment for, a felony under the laws of Illinois or any other state, or the United States.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specific

#### **System of personnel administration**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes

##### **2) Background check review procedure**

Per agency's report to the Task Force, **any conviction of a felony or crime involving dishonesty/moral turpitude, failed drug test, or any falsification in the background**

process will preclude an applicant from being hired. Multiple misdemeanor convictions or arrests, failure to disclose information on background forms, failure to be truthful during background interviews, debt obligations, or criminal history of family members **may** preclude an individual from being hired.

#### **Exemption, waiver, or review mechanisms**

None mentioned in the agency's report to the Task Force

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

Since July 1, 2009, IGB conducted 65 pre-employment screenings. Of those, 18 were deemed disqualified and were not offered employment.

#### **Occupational Licensing, Certification, Regulation**

##### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Riverboat owner, manager of operation, supplier of gambling equipment, occupational positions on the riverboat; video gaming terminal manufacturer, distributor, supplier, operator, handler.

##### **Riverboat Gambling Act [230 ILCS 10/7] (Owners Licenses)**

a. A person, firm or corporation is ineligible to receive an owner's license if: **1) The person has been convicted of a felony under the laws of this State, any other state, or United States; 2) The person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

##### **Riverboat Gambling Act [230 ILCS 10/7.4] (Managers License)**

c. A person, firm, or corporation is ineligible to receive a manager's license if: **1) The person has been convicted of a felony under the laws of this State, any other state, or United States; 2) The person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

##### **Riverboat Gambling Act [230 ILCS 10/8] (Suppliers License)**

d. A person, firm or corporation is ineligible to receive a supplier's license to distribute gambling equipment if: **1) The person has been convicted of a felony under the laws of this State, any other state, or United States; 2) The person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **Riverboat Gambling Act [230 ILCS 10/9] (Occupational Licenses)**

To be eligible for an occupational license, an applicant must: **2) Not having been convicted of a felony offense, a violation of Article 28 (Gambling and related offenses) of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar statute of any other jurisdiction; 2.5) Not have been convicted of a crime, other than a crime described in item (2) of this subsection (a), involving dishonesty or moral turpitude,** except that the Board may, in its discretion, issue an occupational license to a person who has been convicted of a crime described in this item (2.5) more than 10 years prior to his or her application and has not subsequently been convicted of any other crime.

**Restriction Type:** Mandatory

**Restriction Duration:** Unless convictions occurred more than 10 years prior to license application

### **Background check procedures**

**[230 ILCS 10/9] Occupational licenses** (c) Each applicant shall submit with his application, on forms provided by the Board, 2 sets of his fingerprints. The Board shall charge each applicant a fee set by the Department of State Police to defray the costs associated with the search and classification of fingerprints obtained by the Board with respect to the applicant's application. These fees shall be paid into the State Police Services Fund.

(d) The Board may in its discretion refuse an occupational license to any person: (2) who **fails to disclose or states falsely any information called for in the application;** (3) who has been **found guilty of a violation of this Act or whose prior gambling related license or application therefor has been suspended, restricted, revoked or denied for just cause in any other state;** or (4) **for any other just cause.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

### **Video Gaming Act [230 ILCS 40/45] (Issuance of license)**

d. No person may be licensed as a video gaming terminal manufacturer, distributor, supplier, operator, handler, licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment if that person has been found by the Board to:

1) Have a background, including **a criminal record, reputation, habits, social or business associations, or prior activities that pose a threat to the public interests of the State or to the security and integrity of video gaming.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Administrative Code: Title 11, Subtitle D, Chapter I, Part 1800, Sub part D, Section 1800.420. Qualifications for Licensure** a) In addition to the qualifications required in the Act, the Board may not grant any video gaming license until the Board is satisfied that the applicant is: 1) A person of good character, honesty and integrity;

2) A person whose background, including criminal record, reputation and associations, is not injurious to the public health, safety, morals, good order and general welfare of the people of the State of Illinois;

3) A person whose background, including criminal record, reputation and associations, does not discredit or tend to discredit the Illinois gaming industry or the State of Illinois;

4) A person whose background, including criminal record, reputation, habits, social or business associations does not adversely affect public confidence and trust in gaming or pose a threat to the public interests of the State or to the security and integrity of video gaming;

8) A person who does not associate with, either socially or in business affairs, or employ persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body;

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **Occupational Contracting**

#### **Contract positions subject to criminal history restrictions**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

Any conviction of a felony or crime involving dishonesty/moral turpitude, failed drug test, or any falsification in the background process will preclude an applicant from being hired. Multiple misdemeanor convictions or arrests, failure to disclose information on background forms, failure to be truthful during background interviews, debt obligations, or criminal history of family members may preclude an individual from being hired.



# ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## Environment and Business Regulation Agency

**FY14 Headcount: Not available**

<http://www.ihda.org/>

### **Summary of Agency Operations:**

The Illinois Housing Development Authority (IHDA) was created as a self-supporting authority by the state legislature to finance quality affordable housing across Illinois. **IHDA finances** the creation and preservation of affordable housing throughout the State of Illinois to increase the supply of decent and safe places for people of low or moderate means to live.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

**Departments:** Accounting positions, Hardest Hit Funds, Internal Audit, Legal, Human Resources, Information Technology.

**Titles:** Finance Portfolio Manager, Assistant Finance Portfolio Manager, Financial Project Manager, Executive Director, Deputy Executive Director, Chief of Staff, Assistant Executive Director, Chief Financial Officer, General Counsel, Directors of all departments, Research and Policy Manager, Manager Tax Credit Program.

#### **Statutory Restrictions Applicable to Internal Hiring:**

None

#### **System of personnel administration**

##### **State Housing Act [310 ILCS 5/22]**

The Illinois Housing Development Authority shall have power to adopt reasonable and proper rules and regulations relating to the exercise of its powers and proper rules to govern its proceedings and to regulate the mode and manner of all investigations, and hearings and to alter and amend the same.

#### **Background Check Procedures:**

##### **(1) Self-disclosure on application**

Yes

##### **(2) Background check review procedure**

The Authority utilizes a private professional investigator who specializes in background checks to run criminal background reports on persons who apply for the positions noted above in response to 15(c)(1). The completed report is provided to the Authority's Human Resources Department. Additionally, all applicants are asked to disclose the nature of any felony convictions on the Authority's employment application.

The Authority confers with legal counsel when considering criminal record information in the screening process to ensure compliance with federal, state, and local laws, to examine if there is a reasonable relationship between the conviction and the job duties and if so to determine if such conviction reasonably disqualifies an applicant.

**Exemption, waiver, or review mechanisms**

N/A

**Total number of people who underwent a background check**

2 year period beginning on February 1, 2010 and ending on February 1, 2012.

The number and percentage of individuals who underwent a criminal history background check:

2010: 8 background checks, 3%.

2012: 77 background checks, 29%.

Number of individuals who were merely required to disclose their criminal history without a criminal history background check: every employment application completed for employment (unable to discern actual number).

The total number of employees in occupations subject to criminal history restrictions: 12.

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history:**

N/A

**Summary of Employment Restrictions from Agency Report:**

The Authority utilizes a private professional investigator who specializes in background checks to run criminal background reports on applicants and provide the results to the human resources department. All applicants are asked to disclose any felony convictions on the application. The Authority confers with the legal counsel to examine whether there is a reasonable relationship between any convictions and the job duties, and to determine if such conviction reasonably disqualifies the applicant from employment.

Between February 1, 2010 and February 1, 2012, 85 individuals underwent a criminal background check. None were disqualified and none sought waiver.

# **HUMAN RIGHTS COMMISSION**

**Environment and Business Regulations/Executive agency**

**FY14 Headcount: 36**

<http://www2.illinois.gov/ihrc/Pages/default.aspx>

## **SUMMARY OF AGENCY OPERATIONS:**

The Human Rights Commission (HRC) adjudicates complaints of unlawful discrimination filed under the Illinois Human Rights Act. The commission also rules on requests for review filed after dismissal or default orders are entered by the Department of Human Rights.

### **Internal Hiring:**

**Agency positions subject to restrictions based on criminal history**  
None.

**This agency is subject to personnel or non-personnel code.**  
Personnel code agency

**Statutory Restrictions Applicable to Internal Hiring:**  
None.

**Year restriction was adopted**  
N/A

**Background Check Procedures:**  
**(1) Self-disclosure on application**  
None.  
**(2) Background check review procedure**  
None.

**Exemption, waiver, or review mechanisms**  
N/A

**Total number of people who underwent a background check**

**AGENCY occupational licensing restrictions based on criminal history:**

### **Employment Contracting**

**Contracting restrictions based on criminal history:**  
None

### **Summary of Employment Restrictions from Agency Report:**

Agency "does not" have rules, policies, and practices, including licensing and contracting, that restrict employment of individuals with a criminal history.

To that end, the agency is governed by the personnel code of the State of Illinois when establishing rules and policies that pertain to practice of human resources for the HRC to which also provides no restrictions at this time.

# ILLINOIS LABOR RELATIONS BOARD

## Government Services/Executive Agency

FY14 Headcount: 29

<http://www.state.il.us/ilrb/>

### **Summary of Agency Operations**

The Illinois Labor Relations Board conducts representation elections; investigates and remedies unfair labor practice; and processes information regarding arbitration and mediation that will serve parties in resolving labor-related disputes. The board also conducts emergency investigations, upon demand, of public employee strikes and strike threats to determine whether judicial proceedings are warranted to restrain or prevent strike activity that imperils the health and safety of the public.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None specified; all applicants must pass criminal background check, per agency's report to the Task Force.

Attorneys hired must have valid Illinois law license

#### **Statutory/regulatory restrictions applicable to internal hiring**

#### **Supreme Court of Illinois, Rules on Admission and Discipline of Attorneys, Article VII, Part A Admission to the Bar, Rule 701 General Qualifications**

(a) Subject to the requirements contained in these rules, persons may be admitted or conditionally admitted to practice law in this State by the Supreme Court if they are at least 21 years of age, **of good moral character** and general fitness to practice law, and have satisfactorily completed examinations on academic qualification and professional responsibility as prescribed by the Board of Admissions to the Bar or have been licensed to practice law in another jurisdiction and have met the requirements of Rule 705.

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

##### **2) Background check review procedure**

All candidates, including attorneys, are subject to a criminal history record check conducted by the State Police, per agency's report to the Task Force

Criteria and procedures used to determine disqualifying offenses not specified in report

#### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

7

None found disqualified

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history**

**Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

All candidates for employment with the Illinois Labor Relations Board must meet the qualifications for the position and pass a criminal background check by the Illinois State Police.

Seven applicants underwent criminal background checks in the last two years. None were disqualified and none sought waiver.

# ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

Public Safety/Executive agency

FY14 Headcount: 17

<http://www.ptb.state.il.us/>

## **Summary of Agency Operations**

The Illinois Law Enforcement Training and Standards Board (LETSB) provides public safety for Illinois residents through the establishment, evaluation, and improvement of selection and training standards for police officers, including retired officers. LETSB also certifies, funds and reimburses in-service training programs across the state, including mandatory death investigation training, at 13 different training institutes. In addition, the board operates an intern program that provides qualified individuals an opportunity to learn about law enforcement prior to being hired.

## **Internal Hiring**

### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

None, per agency's report to the Task Force. However, the Board's investigators are peace officers subject to restrictions enumerated under the Police Training Act (see below).

### **Statutory, regulatory, agency policy restrictions applicable to internal hiring Police training Act (50 ILCS 705/6.1)**

(f) The Board's investigators are peace officers and have all the powers possessed by policemen in cities and by sheriff's, provided that the investigators may exercise those powers anywhere in the State, only after contact and cooperation with the appropriate local law enforcement authorities.

### **(50 ILCS 705/6.1) Police Training Act Sec. 6.1. Decertification of full-time and part-time police officers.**

(a) The Board must review police officer conduct and records to ensure that **no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

## **System of personnel administration**

### **Personnel Code [20 ILCS 415]**

#### **Title 80, III Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **1) Self-disclosure on application**

Not specified in agency's report to the Task Force

## **2) Background check review procedure**

No restriction on agency employment, per agency's report to the Task Force. The agency's report to the Task Force is silent as to any criminal history background checks conducted.

### **Exemption, waiver, or review mechanisms**

None. Police convicted of a felony are decertified by rule of law [50 ILCS 705/6.1 e].

### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not specified in agency's report to the Task Force

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Police cadet and police intern (civilian) eligibility to enter police training academy; certification of police officers; certification of retired police officers qualified under federal law to carry a concealed weapon.

### **Statutory, regulatory restrictions applicable to occupational licensing of police officers**

#### **Police academy applicants:**

##### **50 ILCS 705/6 Police Training Act (Selection and certification of schools)**

In addition, the (Police Training and Standards) Board has the following power and duties:

e. To review and approve applicants to ensure no applicant is admitted to a certified academy **unless the applicant is a person of good character and has not been convicted of a felony offense, any of the misdemeanors in Section 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or the Criminal Code of 2012, or subsection (a) of Section 17-32 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 5 or 5.2 of the Cannabis Control Act, or a crime involving moral turpitude under the laws of this State or any other state within if committed in this State would be punishable as a felony or a crime of moral turpitude.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

##### **Administrative Code: Title 20, Chapter V, Part 1720, Sub part A, Section 1720.35 (Police)**

**Academy Entrance Qualifications** a. A person shall not be eligible to enter a Board-certified academy for basic training **if that person has been convicted of a felony or any other crime involving moral turpitude, and unless he or she is a person of good character.** b. Moral turpitude includes, but is not limited to, actions that contravene the need to protect the public, fail to meet the integrity of the profession, or do not preserve the administration of justice from reproach.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

##### **Administrative Code: Title 20, Chapter V, Part 1770, Sub part B, Section 1770.205**

**Minimum Requirement for a Recruit**



g. Each recruit and hiring agency shall provide, on a form prescribed by the Board, certification that **the recruit is a person of good character and has not been convicted of a felony offense or a crime involving moral turpitude.** A recruit shall immediately, in writing, keep the Board notified of all arrests and convictions while the recruit is undergoing part-time basic training.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

#### **Background Check Procedures for police academy applicant:**

##### **Administrative Code: Title 20, Chapter V, Part 1720, Sub part A, Sub part A, Section 1720.35 (Police) Academy Entrance Qualifications**

c. An applicant's employer agency shall submit to the academy an authorization to obtain and release information and a written certification within 30 days prior to the first day of basic training. The written certification shall attest that the applicant's background has been checked and verified and that the applicant meets the requirements set forth in subsection (a) and Section 6 of the Illinois Police Training Act.

#### **Police academy Intern (civilian):**

##### **50 ILCS 708/15 (Election to participate in the Police training Intern program)**

Any person may elect to apply to participate in the Law Enforcement Intern Training Program. To be eligible to participate, the person must meet the minimum criteria established by the Board that includes, but is not limited to, physical fitness standards, educational standards, psychological standards, 21 years of age, **of good character, and not convicted of a felony offense or other crime involving moral turpitude under the laws of this State or any other State that, if convicted in this State, would be punishable as a felony or a crime of moral turpitude.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

#### **Background Check Procedures for police academy intern (civilian) applicant:**

The Board's investigators shall enforce the provisions of this Act to ensure compliance with the Act, including, but not limited to, administering a criminal justice background check that includes State and federal criminal histories, conducting interviews, obtaining, by subpoena if necessary, investigative records, police records, personnel records, or other records that may be needed.

#### **Certification of police officers:**

##### **50 ILCS 705/10.2 (Criminal background investigations)**

(a) On and after the effective date of this amendatory Act of the 92nd General Assembly, an applicant for employment as a peace officer, or for annual certification as a retired law enforcement officer qualified under federal law to carry a concealed weapon, shall authorize an investigation to determine if the applicant has been convicted of any criminal offense that disqualifies the person as a peace officer.

b) No law enforcement agency may knowingly employ a person, or certify a retired law enforcement officer qualified under federal law to carry a concealed weapon, unless (i) a criminal background investigation of that person has been completed and (ii) **that investigation reveals no convictions of offenses specified in subsection (a) of Section 6.1 of this Act.**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**Administrative Code: Title 20, Chapter V, Part 1720, Sub part C, Section 1720.240**

**Eligibility Requirements for Retired Law Enforcement Officer to carry a concealed firearm**

a) A permit to carry a concealed firearm may be issued to a qualified retired law enforcement officer, as defined in Section 1720.220, who: 3) **Has authorized an investigation to determine if the applicant has been convicted of any disqualifying criminal offenses, and the results of the investigation reveal no findings of guilt for any disqualifying offenses specified in the Act and the FOID Card Act**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

**(50 ILCS 705/6.1) Police Training Act Sec. 6.1. Decertification of full-time and part-time police officers.**

(a) The Board must review police officer conduct and records to ensure that **no police officer is certified or provided a valid waiver if that police officer has been convicted of a felony offense under the laws of this State or any other state which if committed in this State would be punishable as a felony.** The Board must also ensure that **no police officer is certified or provided a valid waiver if that police officer has been convicted on or after the effective date of this amendatory Act of 1999 of any misdemeanor specified in this Section or if committed in any other state would be an offense similar to Section 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or the Criminal Code of 2012, to subdivision (a)(1) or (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961 or the Criminal Code of 2012, or subsection (a) of Section 17-32 of the Criminal Code of 1961 or the Criminal Code of 2012, or to Section 5 or 5.2 of the Cannabis Control Act.** The Board must appoint investigators to enforce the duties conferred upon the Board by this Act.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

## **Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The Illinois Law Enforcement Training and Standards Board stated that it has no restrictions for employment within the agency.

# **ILLINOIS LIQUOR CONTROL COMMISSION**

**Environment and Business Regulations/Executive agency**

**FY14 Headcount: Under Illinois Department of Revenue**

<http://www.state.il.us/lcc/>

## **Summary of Agency Operations**

The Illinois Liquor Control Commission is within the Illinois Department of Revenue.

## **Internal Hiring**

### **Agency positions subject to restrictions based on criminal history**

Information in the Illinois Department of Revenue (IDOR) report will include the Illinois Lottery and the Illinois Liquor Control Commission (ILCC). This is due to the fact that until September of 2011, the Illinois Lottery was part of the IDOR. They have since separated from IDOR. However the ILCC is still part of IDOR.

Due to the confidential and sensitive nature of tax records and because disclosure of tax information is prohibited, IDOR must investigate all criminal records for new employees, contractual persons, or persons from other state of Illinois agencies requesting an identification badge authorizing admittance to Illinois Department of Revenue facilities. All persons requesting an Illinois Lottery Retailers License are also required to submit to a criminal background check, see 20 ILCS 1605/10.1.

**This agency is subject to personnel or non-personnel code.**

Personnel code agency

### **Statutory Restrictions Applicable to Internal Hiring:**

#### **235 ILCS 5/3-6**

No commissioner, secretary, inspector, or other employee shall be appointed who has been convicted of any violation of any Federal or State law concerning the manufacture or sale of alcoholic liquor prior or subsequent to the passage of this Act or who has paid a fine or penalty in settlement of any prosecution against him for any violation of such laws or shall have forfeited his bond to appear in court to answer charges for any such violation, nor shall any person be appointed who has been convicted of a felony.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

## **Background Check Procedures:**

### **(1) Self-disclosure on application**

Yes, All employees, contractual persons or persons from other state agencies who are seeking identification badge authorizing admittance into IDOR facilities will have a criminal background check completed before they are hired and or given identifications badges, see IDR-147 attached. Additionally, all persons requesting an Illinois Lottery Retailers License are also required to submit to a criminal background check, see 20 ILCS 1605/10.1.

## **(2) Background check review procedure**

Once the background check has been completed, one of the following possibilities would exist.

1. The background check is clear and no further action is required.
2. The applicant failed to include a conviction, including any guilty pleas where the individual received some sort of alternative sentencing, including court supervision. If this occurs the application would be falsified, meaning the application would initially be denied. A letter would be sent to the applicant advising them and giving them the opportunity to contact the Internal Affairs Office of IDOR and request to have the matter reviewed. In many cases the conviction is old and or of a minor nature and the applicant simply forgot to include it, or didn't believe the conviction was on their record. If the applicant requests the matter be reviewed, a committee made up of the Chief of the Internal Affairs Division, the EEO Officer, an Assistant General Counsel and a member of the Shared Services Unit, will meet and make a determination if the application will go forward or be denied.
3. The background check revealed a conviction giving concern as to the applicant's viability. Some examples would include identity theft, gambling, fraud, deceptive practice or any violent crimes. As in the situation above, the application would be reviewed and a decision rendered as to the viability of the applicant. Various factors are weighed, such as the time elapsed between the application and when the conviction took place.

It should also be noted that in addition to the criminal background checks completed on all applicants, a tax check is completed as well. If and when an application reveals a tax issue, the applicant is sent a letter indicating same and if the applicant corrects the problem the application will be approved.

### **Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

### **Total number of people who underwent a background check**

The following statistics are based on all applications received and processed between July of 2009 and January 2012.

Total Applications received/processed = 9768 (5155 were Lottery Retailer Applications or renewals, 4613 were all other applications).

Total Applications Cleared/Approved = 8400 (5108 were Lottery Retailer Applications or Renewals, 3292 were all other applications).

Total number of Applicants denied = 1368 (includes 875 for tax related issues)

Total number of Applications reviewed = 493.

## **AGENCY occupational licensing restrictions based on criminal history:**

### **Liquor Control Act**

#### **235 ILCS 5/6-2 (Issuance of licenses to certain persons prohibited)**

a. Except as otherwise provided in subsection (b) of this Section and in paragraph (1) of subsection (a) of Section 3-12, no license of any kind issued by the State Commission or any local commission shall be issued to:

- 2) A person who is not of good character and reputation in the community in which he resides.
- 4) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant
- 5) A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution.
- 6) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- 12) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation.
- 16) A person who has been convicted of a gambling offense as proscribed by any of subsections (a) (3) through (a) (11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961 or the Criminal Code of 2012, or as proscribed by a statute replaced by any of the aforesaid statutory provision.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

#### **235 ILCS 5/7-1 (Applicant for retail license; requisites)**

An applicant for a retail license from the State Commission shall submit to the State Commission an application in writing under oath stating:

- 21) Whether the applicant has ever been convicted of a gambling offense or felony, and if so, the particulars thereof

If the applicant reports a felony conviction as required under paragraph (21) of this Section, such conviction may be considered by the Commission in determining qualifications for licensing, but shall not operate as a bar to licensing.

**Restriction Type:** Discretionary

**Restriction Duration:** No time limit specified

**235 ILCS 5/7-12 (Conviction to cause forfeiture of license moneys and license revocation)**

Whenever any licensee shall have been convicted by any court of a wilful violation of any of the provisions of this Act, he shall, in addition to the penalties for such offense, incur a forfeiture of his state and local license and all moneys that have been paid therefor; the local commission shall thereupon revoke his license or the State commission shall revoke his license as the case may be.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

**235 ILCS 5/10-4 (Revocation of license after conviction; forfeiture of bond and license fees; effect of revocation)**

Whenever any licensee shall be convicted of any violation of this Act, the licenses of said licensee may, in the discretion of the State commission or of the local commissioner, (whichever has jurisdiction) be revoked and forfeited and all fees paid thereon shall be forfeited, and the bond given by said licensee to secure such licensee's faithful compliance with the terms of this Act shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Act for said licensee to continue to operate under said license.

**Restriction Type:** Discretionary

**Restriction Duration:** No time limit specified

**235 ILCS 5/10-5 (Revocation of license when employee convicted; forfeiture of bond and license Fees)**

Whenever any officer, director, manager or other employe in a position of authority of any licensee under this Act shall be convicted of any violation of this Act while engaged in the course of his employment or while upon the premises described by said license, said license shall be revoked and the fees paid thereon forfeited both as to the holder of said license and as to said premises, and said bond given by said licensee to secure the faithful compliance with the terms of this Act shall be forfeited in like manner as if said licensee had himself been convicted.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Alcohol, Horse Racing and Lottery**

**Administrative Code: Title II, Subtitle A, Chapter I, Part 100 Section 100.30. Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation**

a) No person holding a license issued by the Commission shall in the conduct of the licensed business or upon the licensed premises:

1) Violate any Federal law or State statute.

b) Violations may be proved by evidence that the licensee has been convicted of a violation of a Federal law or a law of the State of Illinois in the conduct of the licensed business or upon the premises, or has been found guilty of violating any city, village, town or county ordinance or resolution regulating the sale of alcoholic liquors.

c) Proof before this Commission of facts which establish a violation of any Federal law, State statute, city, village, town or county ordinance or resolution or rule of the Commission, shall be sufficient cause for imposing a fine, revocation or suspension of any license issued by the Commission, irrespective of whether or not a conviction has been obtained in any court.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

**Employment Contracting**

**Contracting restrictions based on criminal history:**

Not mentioned in the agency report

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

The information above may cover sections relating to the Illinois Department of Revenue (IDOR), the Illinois Lottery and the Illinois Liquor Control Commission (ILCC), since until September of 2011, the Illinois Lottery was part of the IDOR. The ILCC is still part of IDOR. Many statutory restrictions relating to cigarette licenses and taxes are found un



# ILLINOIS LOTTERY

## Economic Development and Infrastructure/Executive Agency

**FY14 Headcount: 182**

<http://www.illinoislottery.com/en-us/home.html>

### **Summary of Agency Operations**

The Department of the Lottery, in conjunction with its private manager, develops, conducts and markets a variety of terminal-based and instant (scratch-off) lottery games; and licenses and regulates lottery ticket outlets. The department will be conducting and marketing internet lottery games. These activities generate revenue for education, capital projects, specialty causes such as veterans' assistance and breast cancer research, and provide entertainment for the residents of the State of Illinois. The Department of the Lottery was within the Illinois Department of Revenue (IDOR) until September 2011.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Information in the Illinois Department of Revenue (IDOR) report will include the Illinois Lottery and the Illinois Liquor Control Commission (ILCC). This is due to the fact that until September of 2011, the Illinois Lottery was part of the IDOR. They have since separated from IDOR. However the ILCC is still part of IDOR.

Due to the confidential and sensitive nature of tax records and because disclosure of tax information is prohibited, IDOR must investigate all criminal records for new employees, contractual persons, or persons from other state of Illinois agencies requesting an identification badge authorizing admittance to Illinois Department of Revenue facilities. All persons requesting an Illinois Lottery Retailers License are also required to submit to a criminal background check, see 20 ILCS 1605/10.1.

### **20 ILCS 1605/5**

The Department shall be under the supervision and direction of a Superintendent, who shall be a person qualified by training and experience to perform the duties required by this Act. The Superintendent shall be appointed by the Governor, by and with the advice and consent of the Senate. The term of office of the Superintendent shall expire on the third Monday of January in odd numbered years provided that he or she shall hold office until a successor is appointed and qualified. The annual salary of the Superintendent is \$142,000.

b. The Superintendent shall devote his or her entire time and attention to the duties of the office and shall not be engaged in any other profession or occupation. The Superintendent shall receive such salary as shall be provided by law.

The Superintendent shall:

3) Have a good reputation, particularly as a person of honesty, independence, and integrity.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**This agency is subject to personnel or non-personnel code.**

Personnel code agency

**Statutory Restrictions Applicable to Internal Hiring:**

N/A

**Year restriction was adopted**

N/A

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes, All employees, contractual persons or persons from other state agencies who are seeking identification badge authorizing admittance into IDOR facilities will have a criminal background check completed before they are hired and or given identifications badges, see IDR-147 attached. Additionally, all persons requesting an Illinois Lottery Retailers License are also required to submit to a criminal background check, see 20 ILCS 1605/10.1.

**(2) Background check review procedure**

Once the background check has been completed, one of the following possibilities would exist.

1. The background check is clear and no further action is required.
2. The applicant failed to include a conviction, including any guilty pleas where the individual received some sort of alternative sentencing, including court supervision. If this occurs the application would be falsified, meaning the application would initially be denied. A letter would be sent to the applicant advising them and giving them the opportunity to contact the Internal Affairs Office of IDOR and request to have the matter reviewed. In many cases the conviction is old and or of a minor nature and the applicant simply forgot to include it, or didn't believe the conviction was on their record. If the applicant requests the matter be reviewed, a committee made up of the Chief of the Internal Affairs Division, the EEO Officer, an Assistant General Counsel and a member of the Shared Services Unit, will meet and make a determination if the application will go forward or be denied.
3. The background check revealed a conviction giving concern as to the applicant's viability. Some examples would include identity theft, gambling, fraud, deceptive practice or any violent crimes. As in the situation above, the application would be reviewed and a decision rendered as to the viability of the applicant. Various factors are weighed, such as the time elapsed between the application and when the conviction took place.

It should also be noted that in addition to the criminal background checks completed on all applicants, a tax check is completed as well. If and when an application reveals a tax issue, the applicant is sent a letter indicating same and if the applicant corrects the problem the application will be approved.

**Exemption, waiver, or review mechanisms**

N/A

**Total number of people who underwent a background check**

The following statistics are based on all applications received and processed between July of 2009 and January 2012.

Total Applications received/processed = 9768 (5155 were Lottery Retailer Applications or renewals, 4613 were all other applications).

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Total number of Applicants denied = 1368 (includes 875 for tax related issues)

Total number of Applications reviewed = 493.

**AGENCY occupational licensing restrictions based on criminal history:****20 ILCS 1605/10 (Licensing of agents to sell lottery tickets or shares)**

The following are ineligible for any license under this Act:

- a. any person who has been convicted of a felony;
- d. Any person who is not of good character and reputation in the community in which he resides;
- e. Any person who has been found guilty of any fraud or misrepresentation in any connection;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 11, Subtitle C, Chapter II, Part 1770, Section 1770.20. Selection of Lottery Sales Agents; License Application and Fee; On-line Status**

The Superintendent shall give careful consideration to the following factors in selecting as licensed sales agents those persons that one may expect to provide a high level of sales volume of Lottery products, proper security for the Lottery equipment, tickets and money, and a good public image for the State's Lottery products:

2. The criminal history and tax status of the applicant as disclosed in the application or in records of the State;

8. The character of the applicant and his or her reputation for honesty and integrity in the community;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**20 ILCS 1605/10.1 (Persons ineligible for licenses)**

The following are ineligible for any license under this Act:

- a. any person who has been convicted of a felony;
- d. Any person who is not of good character and reputation in the community in which he resides;
- e. Any person who has been found guilty of any fraud or misrepresentation in any connection;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**20 ILCS 1605/10.1a (Failure to satisfy tax Act requirements)**

In addition to other grounds specified in this Act, the Department shall refuse to issue and shall suspend the license of any lottery sales agency who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of any such tax Act are satisfied, unless the agency is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of tax. The Department shall affirmatively verify the tax status of every sales agency before issuing or renewing a license. For purposes of this Section, a sales agency shall not be considered delinquent in the payment of a tax if the agency (a) has entered into an agreement with the Department of Revenue for the payment of all such taxes that are due and (b) is in compliance with the agreement.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 11, Subtitle C, Chapter II, Part 1770, Section 1770.40. License Revocation without Prior Notice**

a. Pursuant to Section 10.1 of the Act, the Superintendent must act to assure that no person whom the Act declares to be ineligible for a license is granted a license, and that no licensed sales agent who becomes ineligible under the Act is allowed to remain as a licensed sales agent. The Superintendent may revoke or suspend a license without notice or prior hearing, upon determining any of the following:

3. That the licensed sales agent has been found guilty of fraud, deceit, misrepresentation or other conduct prejudicial to public confidence in the Lottery, including misrepresentation or failure to disclose a material fact on its application for the sale of lottery tickets;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 86, Chapter I, Part 430, Section 430.160. Restrictions and Limitations on the Conducting of Bingo**

f. Miscellaneous Provisions

6. No licensee under the Act, while a bingo session is being conducted, shall knowingly permit the entry into any part of the premises by any person who has been convicted of a felony or a violation of Article 28 of the Criminal Code of 1961 [720 ILCS 5/Art. 28]. [230 ILCS 25/4]

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Employment Contracting**

**Contracting restrictions based on criminal history:**

**20 ILCS 1605/8.1 (Contracts; competitive negotiation)**

Contracts for State Lottery tickets or shares or for other State Lottery game related services shall be obtained through the utilization of competitive negotiation procedures whenever practicable.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

### **30 ILCS 500/50-10 (Felons)**

Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

**Restriction Type:** Mandatory

**Restriction Duration:** From the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

### **Administrative Code Title 44, Subtitle A, Chapter I, Part 1, Sub part P, Section 1.5010. Felons**

Unless otherwise provided, no person or business convicted of a felony shall do business with the State of Illinois or any State agency, or enter into a subcontract, from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]

**Restriction Type:** Mandatory

**Restriction Duration:** From the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. [30 ILCS 500/50-10]

### **30 ILCS 500/50-10.5 (Prohibited bidders and contractors)**

a. Unless otherwise provided, no business shall bid or enter into a contract or subcontract under this Code if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.

d. A natural person who is convicted of a felony referenced in subsection (a) remains subject to Section 50-10.

**Restriction Type:** Mandatory

**Restriction Duration:** For a period of 5 years from the date of conviction

### **Summary of Employment Restrictions from Agency Report:**

The information above may cover sections relating to the Illinois Department of Revenue (IDOR), the Illinois Lottery and the Illinois Liquor Control Commission (ILCC), since until September of 2011, the Illinois Lottery was part of the IDOR. The ILCC is still part of IDOR. Many statutory restrictions relating to cigarette licenses and taxes are found under

# **ILLINOIS MEDICAL DISTRICT COMMISSION**

## **Economic Development and Infrastructure Agency**

**FY14 Headcount: Unknown**

<http://www.imdc.org/>

### **Summary of Agency Operations**

The Illinois Medical District Commission was created to attract and retain academic centers of excellence, viable health care facilities, medical research facilities, emerging high technology enterprises, and other facilities and uses as permitted by this Act.

### **Internal Hiring**

#### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

Agency did not submit a report to the Task Force.

#### **Statutory, regulatory restrictions applicable to internal hiring**

None

### **System of personnel administration**

**Administrative Code: Title 2, Subtitle E, Chapter XLII, Part 2525, Section 2525.180**

**Employment** The Commission shall determine from time to time its necessary personnel and shall employ those individuals as may be necessary for carrying out the functions of the Commission in accordance with Section 5b of the Illinois Medical District Act [70 ILCS 915/5b].

#### **Background Check Procedures:**

Agency did not submit a report to the Task Force.

#### **Exemption, waiver, or review mechanisms**

Agency did not submit a report to the Task Force.

#### **Total number of people who underwent a background check**

Agency did not submit a report to the Task Force

### **Occupational Licensing, Certification, Regulation**

N/A

### **Employment Contracting Authority**

#### **70 ILCS 915/2(Illinois Medical District Commission)**

(b) The Commission shall have perpetual succession, power to contract and be contracted with, to sue and be sued in its corporate name, but judgment shall not in any case be issued against any property of the Commission, to have and use a common seal, and to alter the same at pleasure.

**70 ILCS 915/2.1 (Grants; loans; contracts)**

The Commission may apply for and accept grants, loans, or appropriations from the State of Illinois, the federal government, any State or federal agency or instrumentality, or any other person or entity to be used for any of the purposes of the District and enter into any agreement with the State of Illinois, the federal government, any State or federal instrumentality, or any person or entity in relation to the grants, matching grants, loans, or appropriations. The Commission also may, by contractual agreement, accept and collect assessments or fees for District enhancement and improvements, common area shared services, shared facilities, or other activities or expenditures in furtherance of the purposes of this Act.

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

The Illinois Medical District Commission did not submit a report to the Task Force.

# **ILLINOIS PRISONER REVIEW BOARD**

## **Public Safety/Executive Agency**

**FY14 Headcount: 30**

<http://www2.illinois.gov/prb/Pages/default.aspx>

### **Summary of Agency Operations**

The Prisoner Review Board sets conditions of parole; conducts hearings on parole violations, the release of offenders who committed crime(s) prior to 1978, and the release of juveniles from the Illinois Department of Juvenile Justice; makes confidential recommendations to the governor in clemency cases; and notifies victims of changes in inmates' status.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

None

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Statutory restrictions applicable to internal hiring**

None

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

##### **2) Background check review procedure**

No background checks performed. No written rules or policies other than set forth in the Personnel Code, per agency's report to the Task Force.

#### **Exemption, waiver, or review mechanisms**

N/A

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

0



## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history**

#### **Illinois Procurement Code (30 ILCS 500/)**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Prisoner Review Board (PRB) does not have any restrictions outside those mentioned in CMS personnel code. The PRB does not perform background checks.

# ILLINOIS RACING BOARD

## Environment and Business Regulations/Executive Agency

**FY14 Headcount: 18**

<http://www2.illinois.gov/irb/Pages/default.aspx>

### **Summary of Agency Operations**

The Illinois Racing Board (IRB) is responsible for the enforcement of the Illinois Horse Racing Act, which governs horse racing in the state. The board currently regulates racing at three thoroughbred tracks and two standard-bred (harness) tracks. IRB licenses and regulates off-track betting locations and advance deposit wagering. The board is also responsible for the audit and verification of all racing revenues and receipts.

### **Internal Hiring**

**Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

**By statute:**

Board member

### **Statutory restrictions applicable to internal hiring**

**Horse Racing Act [230 ILCS 5/6(b)]** No person shall be a member of the Board who has been **convicted of, or is under indictment for, a felony** under the laws of Illinois, or any other state, or the U.S.

**Restriction type:** Mandatory

**Restriction duration:** No time limit

### **System of personnel administration for agency staff**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

### **Criminal history record check procedures**

#### **15) Self-disclosure on application**

Yes, Board appointees are vetted by the Governor's Office, per agency's report to the Task Force

#### **16) Background check review procedure**

Criminal history record checks conducted by the Governor's Office for Board appointees

### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

The number of Board member applicants not reported to the Task Force

### **Occupational Licensing, Certification, Regulation**

#### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Owner, Jockey, Trainer, Driver, Inter-track employee, Apprentice Jockey, Owner/Assistant Trainer, Jockey Agent, Racing Official, Business Agent, Totalizer Employee, Authorized Agent, Apprentice Blacksmith, Vendor, Blacksmith, Veterinarian, Off Track Stabling Center, Assistant Trainer, Veterinarian Assistant, Animal Health Tech, pony Person, Exercise Person, Foreman, Vendor/helper, Hotwalker, Groom, Racetrack Employee

#### **Statutory/regulatory restrictions applicable to occupational licensing**

**Horse Racing Act [230 ILCS 5/15)c]** The Board may in its discretion refuse an occupation license to any person:

- (1) **who has been convicted of a crime (see below for definition);**
- (2) who is unqualified to perform the duties required of such applicant;
- (3) who fails to disclose or states falsely any information called for in the application;

**Restriction type:** Discretionary

**Restriction duration:** Within 4 years prior to filing first-time application

#### **Title 11 Ill Admin Code, Chapter I, Part 502**

##### **Section 502.60 Denial of a License for Criminal Conviction**

- a) Pursuant to Section 15(c) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1985, ch. 8, par. 37-15(c)) (the Act), *the Board may, in its discretion, refuse to grant an occupation license to any person who has been convicted of a crime.*
- b) For purposes of this Section, **a crime includes both felonies and misdemeanors**, except for minor traffic offenses, such as parking or speeding tickets. **Driving under the influence**, as defined in Section 11-501 of the Illinois Rules of the Road (Ill. Rev. Stat. 1985, ch. 95½, par. 11-501) is also a crime.
- c) A criminal conviction exists when a plea of guilty, finding of guilty, or a plea of nolo contendere was entered.

#### **Title 11 Ill Admin Code, Chapter I, Part 502**

##### **Section 502.76 Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision**

No license shall be granted to any person while on conditional discharge, parole, probation or supervision **for any crime relating to horse racing, gambling, drugs, use of firearms, acts of violence, or crimes involving dishonesty such as forgery, deceptive practices, or theft**, unless the Board finds that the applicant has complied with the conditions and terms of his court ordered disposition.

**Restriction type:** Mandatory

**Restriction duration:** Until all terms of court-ordered disposition have been met

### **Criminal history record check procedures for occupational licenses**

**5) Self-disclosure on application**

Yes, on Board-approved license application

**6) Background check review procedure**

Fingerprint-based criminal history check with State Police and FBI [230 ILCS 5/15e]

**7) In-house review process**

Board reviews the application and makes a discretionary decision. **Special attention is paid to crimes of dishonesty, fraud, deceit, violence or related to horse racing.** Per agency's report to the Task Force, there is usually a finding that the applicant violated IRB Rule 502.90 (false answers to questions or omissions). The applicant is asked to explain, given a chance to amend their application, and may be assessed a civil penalty.

### **Exemption, waiver, or review mechanisms for occupational licenses**

**Administrative rule: Title 11 Ill Admin Code, Chapter I, Part 502**

**Section 502.60 Denial of a License for Criminal Conviction**

d) **Upon a request for a hearing** pursuant to 11 Ill. Adm. Code 204 from the stewards' recommendation in accordance with Section 502.50, the Board will **review the nature of the crime(s), especially crimes of dishonesty, fraud, deceit or violence, when the crimes were committed and the applicant's subsequent employment history.**

### **Evidence of rehabilitation**

**Administrative rule**

**Title 11 Ill Admin Code, Chapter I, Part 502.72**

**Section 502.72 First-time Applicant Who Has Been Convicted of a Crime**

b) Applicants who have been convicted of a crime shall attach with the application the following: 1) a certified copy of the judgment of the conviction; and 2) at least two letters of reference from persons, none of whom are relatives, who have known the applicant for more than four years and who have personal knowledge of the applicant's character and has reputation for honesty and integrity.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

**Number of license applicants who were subject to a criminal history records check in 2010-2011**

1, 089

1 was disqualified; none sought waiver

### **Agency Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

**Summary of Employment Restrictions from Agency Report**

No person shall be a member of the Illinois Racing Board (IRB) who has been convicted or is under indictment of a felony under the laws of Illinois or any other state, or the US. (230 ILCS 5/6(b)).

All applicants must submit two sets of fingerprints for FBI criminal background check. The Board may refuse an occupational license to any person who has been convicted of a crime (includes felonies and misdemeanors). If a new applicant has been convicted within four years of filing a first-time application, the Board will review the nature of the crime as well as letters of reference from the applicant to determine applicant's eligibility for a license. (230 ILCS 5/15(c)).

No license shall be granted to any person while on conditional discharge, parole, probation or supervision for a crime relating to horse racing, gambling, drugs, firearms, violence, or dishonesty (forgery, deceptive practices, or theft) unless the Board finds that the applicant has complied with the conditions and terms of his court-ordered disposition. (Rule 502.76)

The Board may issue an occupational license without submission of fingerprints if an applicant has been licensed in another recognized jurisdiction after submitting fingerprints for FBI criminal background check.

In 2011, 1,089 applicants underwent criminal background checks. One was disqualified and none sought waiver.

# ILLINOIS STATE BOARD OF EDUCATION

## Education Agency

**FY14 Headcount: 506**

<http://www.isbe.state.il.us/>

### **Summary of Agency Operations**

The Illinois State Board of Education (ISBE) provides resources to promote quality education and opportunities for growth and learning for all Illinois students. ISBE offers every Illinois student access to a strong education system with comprehensive programs to ensure college and career readiness and that students are prepared to ultimately compete in the global economy. ISBE promotes effective leadership to school districts and educators to ensure every school offers a safe and healthy learning environment for all students.

### **Internal Hiring**

#### **Agency positions subject to criminal history restrictions, by statute or regulation**

None

#### **Agency positions subject to criminal history restrictions by agency policy**

All, positions/titles not enumerated in the agency's report to the Task Force

### **System of personnel administration**

#### **School Code, Article 1A, State Board of Education [105 ILCS 5/1A-10]**

Sec. 1A-10. Divisions of Board. The State Board of Education shall, before April 1, 2005, create divisions within the Board, including without limitation the following:

- (1) Teaching and Learning Services for All Children.
- (2) School Support Services for All Schools.
- (3) Fiscal Support Services.
- (4) (Blank).
- (5) Internal Auditor.
- (6) Human Resources.

The State Board of Education may, after consultation with the General Assembly, add any divisions or functions to the Board that it deems appropriate and consistent with Illinois law. (Source: P.A. 95-793, eff. 1-1-09.)

### **Criminal history record check procedures**

#### **1) Self-disclosure on application**

Yes

#### **2) Background check review procedure**

Background checks conducted, but procedures not specified in agency's report to the Task Force

### **Exemption, waiver, or review mechanisms**

Not specified in agency's report to the Task Force

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to the Task Force. None disqualified; none sought waiver, per agency report.

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Any certified (or noncertified) employment position with a public school district.

### **Statutory, regulatory restrictions applicable to occupational licensing**

#### **School Code 105 ILCS 5/21B-5 (Licensure powers of the State Board of Education)**

Recognizing that the education of our citizens is the single most important influence on the prosperity and success of this State and recognizing that new developments in education require a flexible approach to our educational system, the State Board of Education, in consultation with the State Educator Preparation and Licensure Board, shall have the power and authority to do all of the following: (1) Set standards for teaching, supervising, or otherwise holding licensed employment in the public schools of this State and administer the licensure process as provided in this Article.

#### **School Code 105 ILCS 5/21B-15 (Qualifications of educators)**

(a) No one may be licensed to teach or supervise or be otherwise employed in the public schools of this State **who is not of good character** and at least 20 years of age. In determining good character under this Section, the State Superintendent of Education shall take into consideration the disciplinary actions of other states or national entities against certificates or licenses issued by those states and held by individuals from those states. In addition, **any felony conviction of the applicant may be taken into consideration**; however, no one may be licensed to teach or supervise in the public schools of this State who has been convicted of an offense set forth in Section 21B-80 of this Code. Unless the conviction is for an offense set forth in Section 21B-80 of this Code, an applicant must be permitted to submit character references or other written material before such a conviction or other information regarding the applicant's character may be used by the State Superintendent of Education as a basis for denying the application.

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

### **(105 ILCS 5/21B-80) Sec. 21B-80. Conviction of certain offenses as grounds for revocation of license. (a) As used in this Section:**

**"Narcotics offense"** means any one or more of the following offenses:

(1) **Any offense defined in the Cannabis Control Act**, except those defined in subdivisions (a) and (b) of Section 4 and subdivision (a) of Section 5 of the Cannabis Control Act and any offense for which the holder of a license is placed on probation under the provisions of Section 10 of the Cannabis Control Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.

(2) **Any offense defined in the Illinois Controlled Substances Act**, except any offense for which the holder of a license is placed on probation under the provisions of Section 410 of the Illinois Controlled Substances Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.

(3) **Any offense defined in the Methamphetamine Control and Community Protection Act**, except any offense for which the holder of a license is placed on probation under the provision of Section 70 of that Act, provided that if the terms and conditions of probation required by the court are not fulfilled, the offense is not eligible for this exception.

(4) Any attempt to commit any of the offenses listed in items (1) through (3) of this definition.

(5) Any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the offenses listed in items (1) through (4) of this definition.

The changes made by Public Act 96-431 to the definition of "narcotics offense" are declaratory of existing law.

"Sex offense" means any one or more of the following offenses:

(A) **Any offense defined in Sections 11-6, 11-9 through 11-9.5, inclusive, and 11-30, of the Criminal Code of 1961 or the Criminal Code of 2012; Sections 11-14 through 11-21, inclusive, of the Criminal Code of 1961 or the Criminal Code of 2012; Sections 11-23 (if punished as a Class 3 felony), 11-24, 11-25, and 11-26 of the Criminal Code of 1961 or the Criminal Code of 2012; and Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-4.9, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-32, 12-33, and 12C-45 of the Criminal Code of 1961 or the Criminal Code of 2012.**

(B) Any attempt to commit any of the offenses listed in item (A) of this definition.

(C) Any offense committed or attempted in any other state that, if committed or attempted in this State, would have been punishable as one or more of the offenses listed in items (A) and (B) of this definition.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

#### **Background check procedures for applicants to a school district**

**School Code 105 ILCS 5/10-21. Sec. 10-21.9. Criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database.** a) Certified and noncertified applicants for employment with a school district, except school bus driver applicants, are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have **been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State.** (c) No school board shall knowingly employ a person who has been convicted of any offense that would subject him or her to license suspension or revocation pursuant to Section 21B-80 of this Code. Further, **no school board shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified



**School Code 105 ILCS 5/10-21. Sec. 10-21.9. Criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database. Authorization for the check shall be furnished by the applicant to the school district,** except that if the applicant is a substitute teacher seeking employment in more than one school district, a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. **The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check,** or to the regional superintendent who requested the check. **The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent,** except that those applicants seeking employment as a substitute teacher with a school district may be charged a fee not to exceed the cost of the inquiry. **Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse school districts and regional superintendents for fees paid to obtain criminal history records checks under this Section.**

a-5) **The school district or regional superintendent shall further perform a check of the Statewide Sex Offender Database, as authorized by the Sex Offender Community Notification Law,** for each applicant.

(a-6) **The school district or regional superintendent shall further perform a check of the Statewide Murderer and Violent Offender Against Youth Database, as authorized by the Murderer and Violent Offender Against Youth Community Notification Law,** for each applicant.

(d) No school board shall knowingly employ a person for whom a criminal history records check and a Statewide Sex Offender Database check has not been initiated.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 7 years of the application for employment, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State.

**Self-disclosure of convictions by applicants to a school district**

**Administrative Code: Title 23, Subtitle A, Chapter I, Sub chapter b, Part 25, Sub part F, Section 25.490 Certifications of Persons who have been Convicted of a Crime**

Pursuant to Section 21-23a of the School Code [105 ILCS 5/21-23a], convictions related to certain offenses lead to revocation of certificates. Further, **convictions related to certain other offenses may lead to refusal of certification if they demonstrate individuals not to be of good character as required by Section 21-1 of the School Code [105 ILCS 5/21-1].**

Accordingly, **each applicant for the issuance**, registration, or renewal of an Illinois certificate or for the addition of another credential (e.g., endorsement, approval, designation), including any credential issued under Subpart G of this Part, **shall be required to indicate on the relevant form whether he or she has ever been convicted of a felony or of any sex, narcotics, or drug offense in Illinois or any other state.**

**Restriction Type:** Mandatory

**Restriction Duration:** At least one year has elapsed since the end of the sentence for the criminal offense

**Review Procedures for Background Check for applicants to a school district**

**Administrative Code: Title 23, Subtitle A, Chapter I, Sub chapter b, Part 25, Sub part F, Section 25.490 Certifications of Persons who have been Convicted of a Crime**

a. Each individual providing an affirmative response to this question shall be ineligible to receive, register, or renew a certificate or to receive an additional credential if the offense was one of those enumerated in Section 21-23a of the School Code or, **if the offense was not one of those enumerated**, until he or she provides to the State Superintendent of Education: 1) a certified court record of the conviction; 2) evidence that at least one year has elapsed since the end of the sentence for the criminal offense, where "sentence" includes any period of probation that was imposed either alone or in combination with a period of incarceration.

**Restriction Type:** Discretionary

**Restriction Duration:** At least one year has elapsed since the end of the sentence for the criminal offense, where "sentence" includes any period of probation that was imposed either alone or in combination with a period of incarceration.

**Registration and recognition of non-public elementary and secondary schools:**

**105 ILCS 5/2-3.25o) (Registration and recognition of non-public elementary and secondary schools)**

**(c-5)** A non-public elementary or secondary school may not obtain "Non-public School Recognition" status unless the school requires all certified and non-certified applicants for employment with the school, after July 1, 2007, to authorize a fingerprint-based criminal history records check as a condition of employment to determine if such applicants have been **convicted of any of the enumerated criminal or drug offenses set forth in Section 21-23a of this Code or have been convicted, within 7 years of the application for employment, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State.**

Authorization for the check shall be furnished by the applicant to the school, except that if the applicant is a substitute teacher seeking employment in more than one non-public school, a teacher seeking concurrent part-time employment positions with more than one non-public school (as a reading specialist, special education teacher, or otherwise), or an educational support personnel employee seeking employment positions with more than one non-public school, then only one of the non-public schools employing the individual shall request the authorization. Upon receipt of this authorization, the non-public school shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department of State Police.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 7 years of the application for employment, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State.

#### **Definition of Good Character**

#### **School Code (105 ILCS 5/21B-15) Sec. 21B-15. Qualifications of educators.**

(a) No one may be licensed to teach or supervise or be otherwise employed in the public schools of this State who is not of good character and at least 20 years of age.

In determining **good character under this Section**, the State Superintendent of Education shall take into consideration the disciplinary actions of other states or national entities against certificates or licenses issued by those states and held by individuals from those states. In addition, **any felony conviction of the applicant may be taken into consideration**; however, no one may be licensed to teach or supervise in the public schools of this State who has been convicted of an offense set forth in Section 21B-80 of this Code. Unless the conviction is for an offense set forth in Section 21B-80 of this Code, **an applicant must be permitted to submit character references or other written material before such a conviction or other information regarding the applicant's character may be used by the State Superintendent of Education as a basis for denying the application.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

#### **Bilingual certification**

**Administrative Code:** Title 23, Subtitle A, Chapter I, Sub chapter b, Part 25, Sub part B, Section 25.90 Transitional Bilingual Certificate and Examination a. General Requirements.

The applicant shall meet the following general requirements: 1) **Be of good character, as defined in Section 21B-15 of the School Code [105 ILCS 5/21B-15].** (See above for definition)

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

## **Interim Certification of School Counselor Interns**

**Administrative Code:** Title 23, Subtitle A, Chapter I, Sub chapter b, Part 25, Sub part D, **Section 25.227 Interim Certification of School Counselor Interns (2004)** b. Each applicant shall be of good character, as defined in Section 21B-15 of the School Code [105 ILCS 5/21B-15]. (See above for definition)

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

## **Interim Certification of Speech – Language Pathologist Interns**

**Administrative Code:** Title 23, Subtitle A, Chapter I, Sub chapter b, Part 25, Sub part D, **Section 25.255 Interim Certification of Speech – Language Pathologist Interns** a. Each applicant for this certification shall be of good character, as defined in Section 21B-15 of the School Code [105 ILCS 5/21B-15]. (See above for definition)

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

## **Out of country tutors**

**Administrative Code:** Title 23, Subtitle A, Chapter I, Sub chapter o, Part 675, Sub part A, **Section 675.50 Application Requirements** d. If the applicant intends to assign tutors who reside outside the United States, the application shall identify their countries of residence and, for each of those countries, **the national and either regional or local law enforcement authorities from which fingerprint-based checks of criminal history records will be obtained that will be comparable to those required under Section 10-21.9 of the School Code [105 ILCS 5/10-21.9]. Individuals residing in countries where checks of these types are not available shall not be assigned as tutors.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

## **Employment Contracting**

### **Contract positions subject to criminal history restrictions**

All employees of persons or firms holding contracts with non-public schools, including, but not limited to, food service workers, school bus drivers, and other transportation employees, who have direct, daily contact with pupils

**School Code 105 ILCS 5/2-3.25o (Registration and recognition of non-public elementary and secondary schools)**

In order to obtain recognition status under this Section, a non-public school must require compliance with the provisions of this subsection (c-5) from all employees of persons or firms holding contracts with the school, including, but not limited to, food service workers, school bus drivers, and other transportation employees, who have direct, daily contact with pupils. Any information concerning the records of **conviction or identification as a sex offender** of any

such employee obtained by the non-public school principal or president must be promptly reported to the school's governing body.

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit specified

### **Summary of Employment Restrictions from Agency Report**

The Illinois State Board of Education (ISBE) does not have any positions that have a criminal records based restriction. However, ISBE's employment application does inquire regarding criminal history. Further, ISBE conducts background checks on all new employees.

During the past two (2) years, ISBE has not failed to hire an individual or terminated an individual based on a criminal record.

All applicants for employment with public school districts must submit to a fingerprint-based check with the Illinois State Police and FBI. 105 ILCS 5/21B-80 lists all criminal offenses that automatically prohibit an individual from obtaining or holding a certificate, or being employed in the public or ISBE-recognized nonpublic school.

# ILLINOIS STATE BOARD OF ELECTIONS

Government Services/Elections Agency

FY14 Headcount: 75

<http://www.elections.il.gov/>

## **SUMMARY OF AGENCY OPERATIONS:**

The State Board of Elections is an independent state agency that supervises the registration of voters and the administration of elections throughout the state. Created by the Illinois General Assembly in 1973, the board serves as the central authority for all Illinois election law, information and procedures in Illinois.

## **Internal Hiring:**

**Agency positions subject to restrictions based on criminal history**

**This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

## **Statutory Restrictions Applicable to Internal Hiring:**

**10 ILCS 5/1A-13 (This Act may be cited as the Election Code)**

No employee of the State Board of Elections including its executive director and assistant executive director shall engage in any partisan political activity whatsoever, except to vote at elections, nor shall such person contribute, either financially or in services or goods or any other way, to any political party, candidate or organization engaged in political activity. No employee of the Board shall become a candidate for nomination for, or election to, or accept appointment to any public office. Whoever violates any provision of this Section shall be deemed to have vacated his position and shall be discharged. No such person shall be thereafter rehired unless the State Civil Service Commission, upon appeal, finds that this Section has not been violated by such person.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 26, Chapter I, Part 212, Section 212.218 Application and Appointments**

4) Criteria for Selection:

b. Pre-employment screening of applicants may include, but is not limited to, background checks and routine reference verifications.

c. Contractual Employees: Contractual employees have no rights under this Part.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 26, Chapter I, Part 212, Section 212.262 Employee Conduct**

This administrative code references employees not applicants.

**Administrative Code: Title 26, Chapter I, Part 212, Section 212.266 Discipline and Discharge**

This administrative code references employees not applicants.

**Administrative Code: Title 26, Chapter I, Part 212, Section 212.298 Interpretation and Application of Rules**

The Executive Director shall determine the proper interpretation and application of each provision of this Part. The decision of the Executive Director as to the proper interpretation or application of any rule shall be final and binding upon all affected employees unless modified or reversed by the Grievance Review Committee, the courts or an administrative tribunal.

**Background Check Procedures:**

**(1) Self-disclosure on application**

Not mentioned in the agency report

**(2) background check review procedure**

Per Administrative Code: Title 26, Chapter I, Part 212, Section 212.218 Application and Appointments, Pre-employment screening of applicants may include, but is not limited to, background checks and routine reference verifications

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

13

**Agency occupational licensing restrictions based on criminal history:**

N/A

**Employment contracting restrictions based on criminal history:**

N/A

**Summary of employment restrictions from agency report:**

Since January 1, 2010, the State Board of Elections has requested criminal background checks on thirteen applicants; all were deemed qualified and none sought waiver.

# ILLINOIS STATE BOARD OF INVESTMENT

## Economic Development and Infrastructure/Executive Agency

**FY14 Headcount: 10**

<http://www2.illinois.gov/isbi/Pages/default.aspx>

### **Summary of Agency Operations:**

The Illinois State Board of Investment manages the assets of the General Assembly Retirement System, Judges' Retirement System, State Employees' Retirement System.

### **Internal Hiring:**

#### **Agency positions subject to restrictions based on criminal history**

All ISBI employees are subject to a criminal records-based restriction.

#### **This agency is subject to personnel or non-personnel code.**

Personnel code agency

#### **Statutory Restrictions Applicable to Internal Hiring:**

N/A

#### **Year restriction was adopted**

N/A

### **Background Check Procedures:**

#### **(1) Self-disclosure on application**

Yes

#### **(2) Background check review procedure**

IL Department of Central Management Services (DCMS) Personnel Transactions Manual is utilized for job titles under DCMS. ISBI's practice for all job titles is to request the Illinois State Police (ISP) to perform background investigations. Hiring decisions are based on the result reported by ISP and the nature of the position being filled. Job offers are occasionally extended pending the result of ISP's background investigation report.

ISP provides a letter of background investigation result of applicants to ISBI. ISBI makes a determination, based on the information furnished by ISP and nature of the vacant position, whether the criminal history disqualifies the applicant.

#### **Exemption, waiver, or review mechanisms**

None.

#### **Total number of people who underwent a background check**

The following are the required information that reflects the past two years, February 1, 2010 to January 31, 2012:

11 people are currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks, or restrictions.



Three newly hired employees (100% of the newly hired employees) underwent a criminal history background check.

**AGENCY occupational licensing restrictions based on criminal history:**

N/A

**Employment Contracting**

**Contracting restrictions based on criminal history:**

N/A

**Summary of Employment Restrictions from Agency Report:**

See attached document referencing CMS personnel code.

All ISBI employees are subject to a criminal records-based restriction. Criminal history is obtained through self-disclosure on applications and through a background check review procedure. There are no exemptions, waivers, or review mechanisms. From 2/1/2010 through 1/31/2012, 11 people were employed in the occupation whose employment or licensure required criminal history disclosure, background checks, or restrictions. Three newly hired employees (100% of the newly hired employees) underwent a criminal history background check.

# ILLINOIS STATE POLICE

## Public Safety/Executive Agency

**FY14 Headcount: 2,958**

<http://www.isp.state.il.us/>

### **Summary of Agency Operations**

The Illinois State Police (ISP) protects Illinois citizens through patrolling Illinois roadways, providing forensic and police services to local law enforcement statewide, investigating homicides, seizing illegal drugs, responding to emergencies, and maintaining law enforcement information technology systems used by the criminal justice community. ISP's budget reflects a commitment to provide public safety for Illinois citizens with an emphasis on efficiency, integrity and accountability.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

Per agency's report to the Task Force, all Illinois State Police employees are subject to a criminal history check (titles not enumerated)

#### **Statutory, regulatory restrictions applicable to internal hiring (for sworn positions)**

##### **20 ILCS 2610/9**

##### **(Appointment; qualifications for State Police officers)**

Except as otherwise provided in this Section, the appointment of Department of State Police officers shall be made from those applicants who have been certified by the Board as being qualified for appointment. All persons so appointed shall, at the time of their appointment, be not less than 21 years of age, or 20 years of age and have successfully completed 2 years of law enforcement studies at an accredited college or university. Any person appointed subsequent to successful completion of 2 years of such law enforcement studies shall not have power of arrest, nor shall he be permitted to carry firearms, until he reaches 21 years of age. In addition, **all persons so certified for appointment shall be of sound mind and body, be of good moral character, be citizens of the United States, have no criminal records**, possess such prerequisites of training, education and experience as the Board may from time to time prescribe, and shall be required to pass successfully such mental and physical tests and examinations as may be prescribed by the Board.

**Restriction type:** Mandatory

**Restriction duration:** No time limit specified

#### **Agency policy restrictions applicable to internal hiring (for civilian positions)**

**Illinois State Police Policy Manual, PER-008, Employment Standards, Paragraph III.A:**  
Any applicant for a position with the Department or a current employee, sworn or code, **who has**

**been convicted, pleads guilty, stipulates to the facts supporting the charge, or is found guilty of a reportable misdemeanor (as listed in 20 ILCS 2630/5) or a felony offense will not be hired.** This is the Department's only criminal records-based restriction for employment and is required because all employees have access to law enforcement restricted and/or public safety sensitive information by virtue of their access to Department facilities and records. Accordingly, all employees and applicants must meet this public safety sensitive regulation.

**Restriction type:** Mandatory for felony conviction, appeal possible for misdemeanor conviction  
**Restriction duration:** No time limit

#### **System of personnel administration for civilian staff**

##### **Personnel Code [20 ILCS 415]**

##### **Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list**

See section IV. of the Final Report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **System of personnel administration for sworn officers**

**State Police Act [20 ILCS 2610/9]** (a) Except as otherwise provided in this Section, the appointment of Department of State Police officers shall be made from those applicants who have been certified by the [State Police Merit] Board as being qualified for appointment.

See State Police Merit Board Fact Sheet for more detail on qualifications.

#### **Criminal history record check procedures for civilian staff**

##### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

##### **2) How criminal history is obtained**

Per agency's report to the Task Force, the Division of Internal Investigation, Background Investigations Unit uses the LEADS system and enters the applicant's personal information (name, sex, race, date of birth and social security number) to conduct a criminal history check. It cannot be verified through this computer check that the individual entered into the LEADS system and any criminal history information received are the same subject without a set of complete fingerprints.

Each applicant is also fingerprinted and the prints are forwarded to the Illinois State Police, Bureau of Identification and the Federal Bureau of Identification. A response is received showing the individual's complete criminal history.

##### **3) In-house review procedure**

- ##### **4) The Illinois State Police Policy Manual, PER-008, Employment Standards, Paragraph III.A.** states, any applicant for a position with the Department or a current employee, sworn or code, who has been **convicted, pleads guilty, stipulates to the facts supporting the charge, or is found guilty of a reportable misdemeanor (as listed in 20 ILCS 2630/5) or a felony offense will not be hired, or once hired, may be subject to discipline up to and including termination for sworn or code positions.**

## **Exemption, waiver, or review mechanisms for civilian applicants**

**For applicants with misdemeanor convictions: Illinois State Police Policy Manual, PER-008, Employment Standards, Paragraph III.B.2.** States any applicant for a position not barred under Paragraph III.A. who has been convicted of a misdemeanor offense (as described in 20 ILCS 2630/5) may appeal to the Director for relief. The Director may grant such relief if the applicant establishes to the Director's satisfaction that: The circumstances regarding a criminal conviction, the applicant's criminal history, and his/her reputation are such that the applicant will not be likely to act in a manner detrimental or contrary to the interest of the Department and the public.

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

All employees: 3,140 for 2011, and 3,357 for 2010.

There were three (3) individuals disqualified in 2010 based on criminal history information

There were two (2) individuals disqualified in 2011 based on criminal history information

There were no individuals who were disqualified where no waiver or exemption process was available.

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued by agency that are subject to criminal history restrictions**

Firearm Owners Identification (FOID) card (for occupations requiring use of firearms); Law Enforcement Agency Data System (LEADS) terminal operator

### **430 ILCS 65/4 (Application for Firearm Owner's Identification Card)**

2) Submit evidence to the Department of State Police that: (ii) He or she has not been convicted of a felony; (viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed; (ix) He or she has not been convicted of domestic battery, aggravated domestic battery, or a substantially similar offense in another jurisdiction committed before, on or after January 1, 2012 (the effective date of Public Act 97-158).

**Restriction type:** Mandatory

**Restriction duration:** No conviction within the past 5 years

### **Administrative Code: Title 20, Chapter II, Part 1240, Section 1240.50. LEADS Access Security.**

b. Personnel Security Requirements: 1. Thorough background screening of LEADS-related personnel is required by the employing agency. State and national criminal history record checks by fingerprint identification must be conducted for terminal operators, programmers, and other persons employed or utilized to effectuate access to or initiate transmission of LEADS and National Crime Information Center (NCIC) information, regardless of the frequency of access. **A fingerprint-based background check must be performed on any person with direct access to LEADS.** The agency shall submit both Illinois and FBI criminal justice applicant fingerprint inquiries to the Illinois State Police, Bureau of Identification.

**2. No persons will be permitted LEADS access unless they are of good character and have not been convicted of a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction. Any person may have their LEADS access denied if charged with a felony or crime of moral turpitude under the laws of this or any other jurisdiction.**

**3. No person may provide maintenance or technical services at or near LEADS equipment unless they are of good character and have not been convicted of a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction. Any persons may have their authority to provide maintenance or technical services at or near LEADS equipment denied if charged with a felony or a crime involving moral turpitude under the laws of this or any other jurisdiction.**

**Restrictive Type:** Mandatory

**Restriction Duration:** Not specified

### **Employment Contracting**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

All Illinois State Police employees are subject to a criminal history check and are prohibited from employment if their criminal record includes any felony convictions. Sworn and code employees are also prohibited from employment if convicted of a reportable misdemeanor as listed in 20 ILCS 2630/5. Applicants for other positions who have been convicted of a misdemeanor may appeal to the Director for relief.

In calendar years 2010-2011, 6497 employees underwent criminal history background checks. None sought waiver, and five were found disqualified by the results of the check.

# ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## Economic Development and Infrastructure Agency

**FY14 Headcount: Unknown**

<http://www.illinoistollway.com/homepage>

### **Summary of Agency Operations**

The Illinois State Toll Highway Authority (Tollway) maintains and operates 286 miles of interstate tollways in 12 counties in Northern Illinois, including the Reagan Memorial Tollway (I-88), the Veterans Memorial Tollway (I-355), the Jane Addams Memorial Tollway (I-90) and the Tri-State Tollway (I-94/I-294/I-80). Tollway provides and promotes a safe and efficient system of toll-supported highways while ensuring the highest possible level of customer service.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Toll Highway Inspector General; all other positions subject to self-disclosure on application and fingerprint background check

#### **Statutory, regulatory restrictions on internal hiring**

##### **Toll Highway Act [605 ILCS 10/8.5] (Toll Highway Inspector General)**

(b) The Toll Highway Inspector General shall have the following qualifications: 1) has not been **convicted of any felony under the laws of this State, another state, or the United States**

**Restriction Type:** Mandatory

**Restriction Duration:** Not specified

#### **System of personnel administration**

##### **Toll Highway Act [605 ILCS 10/8]**

(c) To employ and discharge, without regard to the requirements of any civil service or personnel act, such administrative, engineering, traffic, architectural, construction, and financial experts, and inspectors, and such other employees, as are necessary in the Authority's judgment to carry out the purposes of this Act; and to establish and administer standards of classification of all of such persons with respect to their compensation, duties, performance, and tenure; and to enter into contracts of employment with such persons for such periods and on such terms as the Authority deems desirable.

(d) To appoint by and with the consent of the Attorney General, assistant attorneys for such Authority, which said assistant attorneys shall be under the control, direction and supervision of the Attorney General and shall serve at his pleasure.

(e) To retain special counsel, subject to the approval of the Attorney General, as needed from time to time, and fix their compensation, provided however, such special counsel shall be subject to the control, direction and supervision of the Attorney General and shall serve at his pleasure.

**Background Check Procedures:****(1) Self-disclosure on application**

Yes

**(2) Background check review procedure**

**Tollway Policy and Procedures** allow applicants who self-identify criminal background or whose criminal histories are disclosed through the fingerprinting process to submit a written statement or appear before the Tollway Criminal Background Review Committee. The Committee identifies the accuracy of the criminal history disclosed and has the opportunity to question the applicant regarding the criminal background. The Committee then forwards the information gathered, along with a recommendation, to the Administrative Review Board, which considers the information and recommendation to determine whether an applicant is suitable for employment.

**Exemption, waiver process**

None mentioned in agency's report to the Task Force

**Total number of people who underwent a background check**

170

**Occupational Licensing, Certification, Regulation****Occupational licenses issued by agency that are subject to criminal history restrictions**

N/A

**Employment Contracting****Toll Highway Act [605 ILCS 10/8]**

(b) To enter into all contracts and agreements necessary or incidental to the performance of its powers under this Act. All employment contracts let under this Act shall be in conformity with the applicable provisions of "An Act regulating wages of laborers, mechanics and other workers employed under contracts for public works," approved June 26, 1941, as amended.

**Summary of Employment Restrictions from Agency Report**

Tollway Policy and Procedures allow applicants who self-identify criminal background or whose criminal histories are disclosed through the fingerprinting process to submit a written statement or appear before the Tollway Criminal Background Review Committee. The Committee identifies the accuracy of the criminal history disclosed and has the opportunity to question the applicant regarding the criminal background. The Committee then forwards the information gathered, along with a recommendation, to the Administrative Review Board, which considers the information and recommendation to determine whether an applicant is suitable for employment.

In calendar years 2010-2011, 170 applicants underwent criminal background checks, with eight deemed disqualified. None sought waiver.

# ILLINOIS STUDENT ASSISTANCE COMMISSION

Education Agency

FY14 Headcount: Unknown

<http://www.isac.org/>

## **SUMMARY OF AGENCY OPERATIONS:**

Illinois Student Assistance Commission (ISAC) acts as a centralized source of information and guidance that offers a comprehensive array of programs and services to make college accessible and affordable for Illinois students.

## **Internal Hiring:**

### **Employment background information:**

All ISAC staff are employees of the State of Illinois. Our employment practices are governed by the Statutes and Rules of the State Universities Civil Service System (SUCSS).

SUCSS oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

### **(5 ILCS 430/5-5) (Personnel policies)**

Each of the following shall adopt and implement personnel policies for all State employees under his, her, or its jurisdiction and control: (viii) the Board of Higher Education

### **110 ILCS 70/36b (2) (Creation)**

The purpose of the University System is to establish a sound program of personnel administration for the Illinois Community College Board, State Community College of East St. Louis (abolished under Section 2-12.1 of the Public Community College Act), Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, University of Illinois, State Universities Civil Service System, State Universities Retirement System, the State Scholarship Commission, and the Board of Higher Education. All certificates, appointments and promotions to positions in these agencies and institutions shall be made solely on the basis of merit and fitness, to be ascertained by examination, except as specified in Section 36e.

### **100 ILCS 70/36b (3)**

The State Universities Civil Service System hereby created shall be a separate entity of the State of Illinois and shall be under the control of a Board to be known as the University Civil Service Merit Board, and is hereinafter referred to as the Merit Board.

### **110 ILCS 70/36d (5) (Powers and duties of the Merit Board)**

To prescribe standards of examination for each class, the examinations to be related to the duties of such class. The Merit Board shall have power to delegate to the Director and his staff the preparation, conduct and grading of examinations. Examinations may be written, oral, by statement of training and experience, in the form of tests of knowledge, skill, capacity, intellect,



aptitude; or, by any other method, which in the judgment of the Merit Board is reasonable and practical for any particular classification. Different examining procedures may be determined for the examinations in different classifications but all examinations in the same classification shall be uniform.

**110 ILCS 70/36d (6)**

To authorize the continuous recruitment of personnel and to that end, to delegate to the Director and his staff the power and the duty to conduct open and continuous competitive examinations for all classifications of employment)

**110 ILCS 70/36d (7)**

To cause to be established from the results of examinations registers for each class of positions in the classified service of the State Universities Civil Service System, of the persons who shall attain the minimum mark fixed by the Merit Board for the examination; and such persons shall take rank upon the registers as candidates in the order of their relative excellence as determined by examination, without reference to priority of time of examination.

**110 ILCS 70/36d (12)**

To appoint a Director and such assistants and other clerical and technical help as may be necessary efficiently to administer Sections 36b to 36q, inclusive. To authorize the Director to appoint an assistant resident at the place of employment of each employer specified in Section 36e and this assistant may be authorized to give examinations and to certify names from the regional registers provided in Section 36k.

**110 ILCS 70/36e (Coverage)**

All employees of the Illinois Community College Board, State Community College of East St. Louis (abolished under Section 2-12.1 of the Public Community College Act), Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, University of Illinois, State Universities Civil Service System, State Universities Retirement System, the State Scholarship Commission, and the Board of Higher Education, shall be covered by the University System described in Sections 36b to 36q, inclusive, of this Act, except the following persons:

1. The members and officers of the Merit Board and the board of trustees, and the commissioners of the institutions and agencies covered hereunder
2. The presidents and vice-presidents of each educational institution
3. Other principal administrative employees of each institution and agency as determined by the Merit Board
4. The teaching, research and extension faculties of each institution and agency
5. Students employed under rules prescribed by the Merit Board, without examination or certification

**110 ILCS 70/36f (Examinations)**

All examinations given under the University System shall be open to all applicants who are citizens of or residents in the State of Illinois and who can qualify by training and experience for the position for which application is made. In examinations for technical positions for which no qualified residents of this State are available the residence requirement may be waived. The

examinations shall be practical and shall relate to the classification for which the examination is given. No question in any examination shall relate to political or religious affiliation or racial origins of the examinee.

#### **110 ILCS 805/2-6 (5)**

In accordance with the provisions of “An Act to create the State Universities Civil Service System,” approved May 11, 1905, as now or hereafter amended, the Board shall employ and fix the compensation of an executive officer and such employees as it deems necessary for the purposes of this Act.

#### **Statutory Restrictions Applicable to Internal Hiring:**

##### **Agency positions subject to restrictions based on criminal history:**

#### **110 ILCS 70/36h (Appointment)**

No person shall be appointed to any police department of any university or college covered by the University System unless he possesses a high school diploma or an equivalent high school education, and unless he is a person of good character and is not a person who has been convicted of a felony or a crime involving moral turpitude.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

#### **110 ILCS 70/46**

Any person who shall wilfully, or through culpable negligence, violate any of the provisions of this act, or any board member, examiner, agent or employee of the board, or any applicant, who shall wilfully, or through culpable negligence, violate any rule promulgated in accordance with the provisions thereof, shall be guilty of a Class B misdemeanor.

All prosecution for violations of this act shall be instituted and conducted by the State's Attorney of the county where the offense occurred. In the case of conviction under the provisions of this act, the office or position held by the person convicted shall become vacant.

#### **Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.50 Examinations**

##### **c. Rejection or Disqualification of Applicants.**

The employer may reject any applicant, or, after examination, the Executive Director may refuse to certify any candidate who, in addition to requirements specified in Section 36f of the State Universities Civil Service Act [110 ILCS 70/36f] and subsection (b), fails to pass a physical examination given to determine his/her physical qualifications for employment, uses intoxicating beverages to excess, uses narcotics, has been dismissed from either private or public service for a cause detrimental to his/her employment by an employer under the University System, has maintained an unsatisfactory employment record, has practiced deception or fraud in his/her application, examination, or material pertaining to these, or has committed an offense that in the judgment of the Executive Director disqualifies him/her for employment.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.60 Eligible Registers**

**Agency positions subject to restrictions based on criminal history**

None

**This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes, on the employment application and the applicant complete the CMS-284 (1/99) IL 401-0938

**Policy/Procedure/System**

**Procedures 4.0**

ISAC will obtain criminal background check results through the Illinois State Police or an approved vender. All costs associated with the background checks will be the responsibility of ISAC.

**Procedures 4.1 (New Hires)**

Applicants will be informed at the time of application that a criminal background check will be required. Applicants being considered for Community Worker or other outreach positions will be required to submit to fingerprinting and any additional testing as required by the local school district or schools to which they are assigned. An applicant can receive a conditional offer for hire, with the understanding that s/he will have to undergo a criminal check.

**Procedures 4.1.1**

Applicants will be expected to sign a Request for Release of Information Form and provide other relevant information to complete a criminal background investigation.

**Procedures 4.1.2**

An applicant's failure to disclose a criminal conviction on the employment application will be considered falsification of records. Such actions may be grounds for ISAC's refusal to consider the application and withdraw a job offer.

**(2) background check review procedure**

**Procedures 4.3 Consequences if Criminal Conviction Revealed:**

The existence of a conviction does not automatically disqualify an applicant or existing ISAC employee from hire, reassignment, or promotion. If the criminal background check reveals a conviction, the internal review committee (IRC) will review and determine the applicant's or employee's continued eligibility for hire, reassignment, or promotion through posting or desk audit (only if the latter is initiated by the employee).

The IRC will consider the following factors in determining whether an external applicant or current ISAC employee with a criminal conviction will qualify to be hired, reassigned, or promoted through posting or desk audit:

- Nature and gravity of the conviction

- Relationship the conviction bears to the duties and responsibilities of the position
- Time elapsed since the conviction and/or incarceration
- Number of convictions

Current ISAC employees with prohibited criminal convictions may be subject to disciplinary action, up to and including dismissal or discharge. Decisions will be based upon a number of factors considered by the IRC, including (without limitation) the factors described above. In addition to those factors, the IRC will consider:

- Whether the conviction occurred during the employee's tenure with ISAC
- If the employee revealed the conviction on the original employment application
- If the employee disclosed the conviction on the Annual Criminal Background Check certification

### **Exemption, waiver, or review mechanisms**

#### **Procedures 4.4 Contesting the Background Check Results and IRC Decision**

External applicants and current employees will be advised if the criminal background check reveals a conviction. External applicants who contest the results of background check must contact the external vendor to contest the results. Instructions on how to contest a criminal background check with the third-party who conducted the check will be provided to the applicant/employee.

Current ISCA employees may contest the eligibility determination of the IRC, by submitting a written letter of contest to the Deputy Executive Director within two (2) calendar days after being notified of the eligibility results. The Deputy Executive Director will review the contest letter and provide a final determination, in writing, within a reasonable time after receipt of such request, but no later than fourteen days(14) days. The final determination may indicate that additional time is necessary to review the applicant's or employee's written letter of appeal. In that case, the Deputy Executive Director will identify the estimated date s/he will deliver the final determination.

ISAC may place current ISAC employees on a paid administrative leave pending the final determination of the Deputy Executive Director.

#### **Total number of people who underwent a background check**

Not mentioned in the agency report

#### **AGENCY occupational licensing restrictions based on criminal history:**

None

#### **EMPLOYMENT contracting restrictions based on criminal history:**

None

#### **SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

Applicants can receive a conditional offer to hire based on criminal background checks, which ISAC obtains through the Illinois State Police. Current employees must annually certify whether or not they have been convicted with a misdemeanor or felony within the past year.

The existence of a conviction is not an automatic disqualifier. The internal review committee (IRC) considers the nature and gravity of the conviction and its relationship to the person's duties and responsibilities, the number of convictions, and the time elapsed since the conviction/incarceration. Applicants and employees are given instructions on how to contest a criminal background check, and current employees can contest the IRC determination via written letter to the Deputy Executive Officer within two calendar days of being notified of the eligibility results.

# ILLINOIS TEACHERS' RETIREMENT SYSTEM

Education Agency

FY14 Headcount: Unknown

<http://trs.illinois.gov/>

## **SUMMARY OF AGENCY OPERATIONS:**

The Teachers' Retirement System of Illinois provides benefits to teachers and certified personnel working with public schools across the state, excluding Chicago city employees. The state-supported system offers retirement annuities, survivor benefits and disability payments to its members.

### **Internal Hiring:**

**Agency positions subject to restrictions based on criminal history**

None

**This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

**Statutory Restrictions Applicable to Internal Hiring:**

None

### **Background Check Procedures:**

**(1) Self-disclosure on application**

Yes

**(2) background check review procedure**

Not mentioned in agency report

### **Exemption, waiver, or review mechanisms**

Criminal background checks are conducted on all job candidates prior to being hired by TRS. The System does not have a policy enumerating disqualifying offenses. Rather, discretion is used in determining whether a conviction for an offense is related to the position for which the person is applying, and consideration is made as to whether the offense was an act of moral turpitude or indicates the lack of good moral character.

**Total number of people who underwent a background check**

14

### **AGENCY occupational licensing restrictions based on criminal history:**

N/A

### **EMPLOYMENT contracting restrictions based on criminal history:**

N/A

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

The TRS Employment Application asks applicants to disclose whether they have been convicted of any offense other than a minor traffic violation, excluding sealed or expunged records of convictions or arrests. Criminal background checks are conducted on all job candidates prior to being hired by TRS. There is no policy enumerating disqualifying offenses, rather it is discretionary whether a conviction is related to the position for which an individual is applying, and whether the offense was an act of moral turpitude or indicates a lack of good moral character.

In calendar years 2010 and 2011, TRS administered criminal background checks on 14 candidates, and none were disqualified based on criminal history disclosure.

# ILLINOIS WORKERS' COMPENSATION COMMISSION

## Environment and Business Regulations/Executive agency

**FY14 Headcount: 174**

<http://www.iwcc.il.gov/>

### **Summary of Agency Operations**

The Illinois Workers' Compensation Commission (IWCC) resolves workers' compensation disputes in a fair and timely manner. IWCC processes 50,000-60,000 claims each year.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

All job candidates are subject to a criminal history background check (titles not specified)

#### **Authorization for restriction of applicant**

**f) Statutory restrictions applicable to internal hiring**

None

**g) Administrative rule restrictions applicable to internal hiring**

None

**h) Agency policy restrictions applicable to internal hiring**

Yes, agency policy to conduct background checks on all job applicants, per agency's report to the Task Force

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

**17) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

**18) Background check review procedure**

All candidates are subject to a criminal record background check, per agency's report to the Task Force.

**19) In-house review procedures**

Procedures for determining disqualifying offenses were not specified.

#### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

81

0 Disqualified



## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history, by statute or regulation**

#### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

There are no Illinois Workers' Compensation Commission-specific employment restriction policies based on past criminal history for anyone in the department.

From January 1, 2010 until January 5, 2012, eighty-one people have become Commission employees and have had criminal background checks conducted on them. None were disqualified or sought waiver.

# **OFFICE OF APPELLATE DEFENDER**

**Government Services/Judicial Agency**

**FY14 Headcount: 239**

<http://www.illinois.gov/osad/Pages/default.aspx>

## **SUMMARY OF AGENCY OPERATIONS:**

The Office of the State Appellate Defender represents indigent persons on appeal in criminal and delinquent minor proceedings when appointed to do so under Supreme Court Rule or Illinois law. The office also administers an informational program regarding the sealing and expungement of criminal records for both juvenile and adult ex-offenders.

### **Agency positions subject to restrictions based on criminal history**

Not mentioned in the agency report

### **This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

## **Statutory Restrictions Applicable to Internal Hiring:**

### **725 ILCS 105/9 (Organization of office)**

- a, The State Appellate Defender shall establish an office in each judicial district.
- b. The State Appellate Defender shall appoint a deputy defender for each judicial district who shall serve as the administrator of the district office. Each such appointment shall be approved by a majority of the appellate court judges of the judicial district. Each deputy defender must be an attorney licensed to practice law in this state. Deputy defenders shall serve at the pleasure of the State Appellate Defender.
- c. The staff of the State Appellate Defender may consist of additional attorneys licensed to practice law in this state to serve as assistant appellate defenders, and administrative, investigative, secretarial, and clerical employees necessary to discharge the duties of the office.
- d. Deputy Defenders shall employ, with the approval of the State Appellate Defender, assistant appellate defenders, investigators, secretaries, clerks, and other employees under their direct supervision.
- e. Attorneys employed by the State Appellate Defender or by a Deputy Defender shall devote full time to their duties, except as provided in Section 9.1, and may not engage in the private practice of law.

**Administrative Code: Title 2, Subtitle B, Chapter IV, Part 500, Sub part A, Section 500.20 Office of The State Appellate Defender**

## **b. The State Appellate Defender**

### **1) Appointment of the State Appellate Defender**

B. The State Appellate Defender must be an attorney licensed to practice law in Illinois and shall devote full time to the duties of the office. The person appointed as State Appellate Defender shall not engage in the private practice of law while holding that position. (Section 5(a) of the Act)

**Restriction Type:**

Mandatory

**Restriction Duration:**

Not mentioned in the above listed administrative code.

**2) Removal of the State Appellate Defender**

The Supreme Court may remove the State Appellate Defender only for cause and after a hearing. The Supreme Court may hold a hearing for this purpose on its own motion or upon a motion by the Commission and may adopt rules establishing other procedures for the hearing. (Section 5(b) of the Act)

**Restriction Type:**

Mandatory

**Restriction Duration:**

Not mentioned in the above listed administrative code

**c. Organization of the Office of the State Appellate Defender**

**1) District Offices**

The State Appellate Defender shall establish an office in each judicial district. (Section 9(a) of the Act)  
The State Appellate Defender may establish other offices to aid in the discharge of his or her duties.

**2) Deputy Defenders**

A. The State Appellate Defender shall appoint a Deputy Defender for each district. Deputy Defenders shall serve at the pleasure of the State Appellate Defender.

B. The District Deputy Defender shall serve as the administrator of the district office. Each appointment of a Deputy Defender must be approved by a majority of the appellate court judges of the judicial district and must be an attorney licensed to practice law in Illinois.

C. Deputy Defenders shall employ, with the approval of the State Appellate Defender, Assistant Appellate Defenders, investigators, clerical and other employees under their direct supervision. District Office personnel include Supreme Court Unit, Capital Post Conviction Unit and Capital Trial Assistance Unit employees.

**3) Staff of the Office of the State Appellate Defender**

A. The staff of the State Appellate Defender may consist of additional attorneys licensed to practice law in Illinois who serve as Assistant Appellate Defenders. Attorneys employed by the State Appellate Defender shall devote full time to their duties and may not engage in the private practice of law.

B. The State Appellate Defender may appoint administrative, investigative and clerical employees necessary to discharge the duties of the Office. (Section 9(c) of the Act) These Office personnel may include Deputy State Appellate Defenders, Deputy Defenders and Assistant Defenders in non-District offices, and the Chief Fiscal Officer/Human Resources Director, Legislative Liaison, Information Technology Directory, Director of Support Services, Senior Administrative Assistant and Expungement Staff (see Subpart D).

**Per the Agency employee manual:**

"The hiring of employees shall be based upon the requirements for the position and the applicant's qualifications and ability to perform the duties for the required position. In the hiring of attorneys, consideration shall be given to the applicant's professional qualifications including legal and writing ability, as well as the ability to deal professionally with clients, other employees, court personnel and the public. The Office of the State Appellate Defender shall not discriminate or base employment upon race, sex, age, creed, religion, color, marital or parental status, sexual orientation, age, national origin, political affiliation or beliefs, mental or physical handicap, or any other non-merit factor."

**705 ILCS 205/1**

No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose from the Supreme Court of this State

**Restriction Type:**

Mandatory

**Restriction Duration:**

Not mentioned in the above listed statute

**Background Check Procedures:**

**(1) Self-disclosure on application**

Not mentioned in the agency report

**(2) background check review procedure**

Not mentioned in the agency report

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

N/A

**AGENCY occupational licensing restrictions based on criminal history:**

N/A

**AGENCY contracting restrictions based on criminal history:**

**725 ILCS 105/10.5** (Competitive bidding for appellate services)

a. The State Appellate Defender may, to the extent necessary to dispose of its backlog of indigent criminal appeals, institute a competitive bidding program under which contracts for the services of attorneys in non-death penalty criminal appeals are awarded to the lowest responsible bidder.

**Restriction Type:**

Discretionary

**Restriction Duration:**

Not mentioned in the above listed statute

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

“The hiring of employees shall be based upon the requirements for the position and the applicant's qualifications and ability to perform the duties for the required position. In the hiring of attorneys, consideration shall be given to the applicant's professional qualifications including legal and writing ability, as well as the ability to deal professionally with clients, other employees, court personnel and the public. The Office of the State Appellate Defender shall not discriminate or base employment upon race, sex, age, creed, religion, color, marital or parental status, sexual orientation, age, national origin, political affiliation or beliefs, mental or physical handicap, or any other non-merit factor.”

None of the employees of the Office of the State Appellate Defender have undergone criminal background checks.

# OFFICE OF STATE'S ATTORNEYS APPELLATE PROSECUTOR

Government Services/Judicial Agency

FY14 Headcount: 81

<http://www.ilsaap.org/>

## **SUMMARY OF AGENCY OPERATIONS:**

The Office of the State's Attorneys Appellate Prosecutor represents the state on appeal. The agency represents state's attorneys with Illinois Controlled Substances Act, the Narcotics Profit Forfeiture Act, the Cannabis Control Act, the Drug Asset Forfeiture Procedure Act, the Capital Crimes Litigation Act, and the Illinois Public Labor Relations Act and assists state's attorneys with criminal investigations and prosecutions, serves as special prosecutor when appointed, and conducts criminal justice training programs.

### **Agency positions subject to restrictions based on criminal history**

Per agency report, there are no criminal based restrictions

### **This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

### **Statutory Restrictions Applicable to Internal Hiring:**

#### **705 ILCS 205/1**

(No person shall be permitted to practice as an attorney or counselor at law within this State without having previously obtained a license for that purpose from the Supreme Court of this State)

### **Restriction Type:**

Mandatory

### **Restriction Duration:**

Not mentioned in the agency report

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor with the FAR E-Verify clause") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

### **Background Check Procedures:**

#### **(1) Self-disclosure on application**

#### **(2) background check review procedure**

Not mentioned in the agency report

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

Not mentioned in the agency report

**AGENCY occupational licensing restrictions based on criminal history:**

None

**AGENCY contracting restrictions based on criminal history:**

None

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

All attorneys must be licensed to practice law in Illinois. All employees must be in compliance with the Department of Homeland Security by verifying eligibility through Form I-9.

There are no criminal records-based restrictions for employees.

**OFFICE OF THE COMPTROLLER**  
**Government Services/Constitutional Office**

**FY14 Headcount: 257**

<http://www.ioc.state.il.us/>

**SUMMARY OF AGENCY OPERATIONS:**

The Illinois Office of the Comptroller (IOC), as the state's chief fiscal officer, manages the state's central financial accounts. The office records and processes fund and accounting transactions, pre-audits grants, contracts and requests for payment. The office orders payments from state treasury-held funds by issuing warrants and electronic fund transfers, and provides leadership on fiscal issues affecting the State of Illinois and its citizens.

**Internal Hiring:**

**Agency positions subject to restrictions based on criminal history**

None

**This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

**Employment Background Information:**

**15 ILCS 410/5b (General exemptions)**

The following positions in the Office of the Comptroller shall be exempt from jurisdictions A, B and C, unless such jurisdictions shall be extended as provided in this Act;

- (1) The Comptroller and Deputy Comptrollers.
- (2) The personal secretaries and administrative assistants to the Comptroller and Deputy Comptrollers.
- (3) Persons exercising substantial executive or administrative functions who have, as their primary responsibility, the operation of an organizational entity in the Office of the Comptroller.
- (4) Licensed attorneys in positions as legal or technical advisors, except in those positions paid from federal funds if such exemption is inconsistent with federal requirements.

**Statutory Restrictions Applicable to Internal Hiring:**

**Statute: 15 ILCS 410/10b.1, from Ch. 15, par. 426**

Sec. 10b.1. Competitive examinations. For open competitive examinations to test the relative fitness of applicants for the respective positions. Tests shall be designed to eliminate those who are not qualified for entrance into the Office of the Comptroller and to discover the relative fitness of those who are qualified. The Director may use any one of or any combination of the following examination methods which in his judgment best serves this end: investigation of education and experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical skill; test of psychological fitness. No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8,



subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012, or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment unless the person is attempting to qualify for a position which entails financial responsibilities, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. All examinations shall be announced publicly at least 2 weeks in advance of the date of examinations and may be advertised through the press, radio or other media.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

### **15 ILCS 405/10.13**

No person shall be employed in the comptroller's office who, at the same time, is employed by any other State agency, except that a person shall not be disqualified from accepting or continuing employment in the Comptroller's Office because that person at any time is employed in a part-time teaching position at any State college or university.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

### **Administrative Code: Title 80, Subtitle B, Chapter III, Part 500, Sub part C, Section 500.210 Application and Examination**

q. Removal of Names From Eligible Lists:

2) The Director may remove names from an eligible list for any of the following reasons. Eligibles shall be notified of such removal.

L. Conviction of an eligible of a felony;

**Year restriction was adopted**

2000

### **Background Check Procedures:**

#### **(1) Self-disclosure on application**

Yes

#### **(2) background check review procedure**

Senior management reviews background checks to determine if offenses may be disqualifying

### **Exemption, waiver, or review mechanisms**

None

### **Total number of people who underwent a background check**

91

## **AGENCY occupational licensing restrictions based on criminal history:**

### **225 ILCS 45/3 (Licensing)(Illinois Funeral or Burial Funds Funds Act)**

a) No person, firm, partnership, association or corporation may act as seller without first securing from the State Comptroller a license to so act. Application for such license shall be in writing, signed by the applicant and duly verified on forms furnished by the Comptroller. Each application shall contain at least the following:

(5) For each individual listed under item (1) above, a detained statement of the individual's business experience for the 10 years immediately preceding the application; any present or prior connection between the individual and any other person engaged in pre-need sales; any felony or misdemeanor conviction for which fraud was an essential element; any charges or complaints lodged against the individual of which fraud was an essential element and which resulted in civil or criminal litigation; any failure of the individual to satisfy an enforceable judgment entered against him based upon fraud; and any other information requested by the Comptroller relating to past business practices of the individual. Since the information required by this item (5) may be confidential or contain proprietary information, this information shall not be available to other licensees or the general public and shall be used only for the lawful purposes of the Comptroller in enforcing this Act;

**Restriction Type:** Mandatory

**Restriction Duration:** Individual's business experience for the 10 years immediately preceding the application

### **225 ILCS 45/3a (Denial, suspension, or revocation of license)**

(a) The Comptroller may refuse to issue or may suspend or revoke a license on any of the following grounds:

(9) As to any individual required to be listed in the license application, the individual has conducted or is about to conduct any business on behalf of the applicant in a fraudulent manner; as been convicted of any felony or misdemeanor, an essential element of which is fraud; has had a judgment rendered against him or her based on fraud in any civil litigation; has failed to satisfy any enforceable judgment or decree rendered against him or her by any court of competent jurisdiction; or has been convicted of any felony or any theft-related offense.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

### **410 ILCS 18/7 (Powers and duties of the Comptroller)(Crematory Regulation Act)**

Subject to the provisions of this Act, the Comptroller may exercise any of the following powers and duties:

(4) Conduct hearings on proceedings to refuse to issue license or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees and to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees.

**410 ILCS 18/11 (Grounds for denial or discipline)**

(b) The Comptroller may refuse to issue a license, place on probation, reprimand, or take other disciplinary action that the Comptroller may deem appropriate, including imposing fines not to exceed \$5,000 for each violation, with regard to any license under this Act, or may suspend or revoke a license issued under this Act, on any of the following grounds:

(5) As to any individual listed in the license application as required under Section 10, that individual has conducted or is about to conduct any cremation business on behalf of the applicant in a fraudulent manner or has been convicted of any felony or misdemeanor an essential element of which is fraud.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

**760 ILCS 100/9 (Application for license) (Trust and Fiduciaries)**

(b) Applications for license shall be filed with the Comptroller. Applications shall be in writing under oath, signed by the applicant, and in the form furnished by the Comptroller. The form furnished by the Comptroller shall enable a cemetery authority to apply for license of multiple cemetery locations within a single license application. A check or money order in the amount of \$25 per license seeking to be issued under the application, payable to: Comptroller, State of Illinois, shall be included. Each application shall contain the following:

(3) as to the name of each individual person listed under (1) above, a detailed statement of each person's business experience for the 10 years immediately preceding the application; the present and previous connection, if any, of each person with any other cemetery or cemetery authority; whether each person has ever been convicted of any felony or has ever been convicted of any misdemeanor of which an essential element is fraud or has been involved in any civil litigation in which a judgment has been entered against him or her based on fraud; whether each person is currently a defendant in any lawsuit in which the complaint against the person is based upon fraud; whether such person has failed to satisfy any enforceable judgment entered by a court of competent jurisdiction in any civil proceedings against such individual;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in statute

**760 ILCS 100/10 (Upon receipt of such application for license)**

The Comptroller shall issue a license to the applicant unless the Comptroller determines that:

(h) The applicant or any individual listed in the license application has conducted or is about to conduct any business on behalf of the applicant in a fraudulent manner; or has been convicted of a felony or any misdemeanor of which an essential element is fraud; or has been involved in any civil litigation in which a judgment has been entered against him or her based on fraud; or has failed to satisfy any enforceable judgment entered by the circuit court in any civil proceedings against such individual; or has been convicted of any felony of which fraud is an essential element; or has been convicted of any theft-related offense; or has failed to comply with the requirements of this Act; or has demonstrated a pattern of improperly failing to honor a contract with a consumer;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in statute

**815 ILCS 390/6 (License application)(Business Transactions)**

(a) An application for a license shall be made in writing to the Comptroller on forms prescribed by him or her, signed by the applicant under oath verified by a notary public, and accompanied by a non-returnable \$125 application fee, \$100 of which shall be deposited into the Comptroller's Administrative Fund. The Comptroller may prescribe abbreviated application forms for persons holding a license under the Cemetery Care Act. Applications (except abbreviated applications) must include at least the following information:

(3) For each individual listed under (1) above, a detailed statement of the individual's business experience for the 10 years immediately preceding the application; any present or prior connection between the individual and any other person engaged in pre-need sales; any felony or misdemeanor conviction for which fraud was an essential element; any charges or complaints lodged against the individual for which fraud was an essential element and which resulted in civil or criminal litigation; any failure of the individual to satisfy an enforceable judgment entered against him or her based upon fraud; and any other information requested by the Comptroller relating to the past business practices of the individual. Since the information required by this paragraph may be confidential or contain proprietary information, this information shall not be available to other licensees or the general public and shall be used only for the lawful purposes of the Comptroller in enforcing this Act;

**Restriction Type:** Mandatory

**Restriction Duration:** Individual's business experience for the 10 years immediately preceding the application

**815 ILCS 390/7 (The Comptroller may refuse to issue or may suspend or revoke a license on any of the following grounds)**

(j) As to any individual listed in the license application as required pursuant to Section 6, that individual has conducted or is about to conduct any business on behalf of the applicant in a fraudulent manner, has been convicted of any felony or misdemeanor an essential element of which is fraud, has had a judgment rendered against him or her based on fraud in any civil litigation, has failed to satisfy any enforceable judgment or decree rendered against him by any court of competent jurisdiction, or has been convicted of any felony or any theft-related offense;

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

**EMPLOYMENT contracting restrictions based on criminal history:**

**15 ILCS 405/23.9 (Minority Contractor Opportunity Initiative)**

Minority Contractor Opportunity Initiative. The State Comptroller Minority Contractor Opportunity Initiative is created to provide greater opportunities for minority-owned businesses, female-owned businesses, businesses owned by persons with disabilities, and small businesses with 20 or fewer employees in this State to participate in the State procurement process. The initiative shall be administered by the Comptroller.

**15 ILCS 410/6a (Director - powers and duties)**

The Director shall have the following duties and responsibilities:

4) Subject to such exemptions or modifications as may be necessary to assure the continuity of federal contributions for positions paid from federal funds, to make appointments to vacancies; to approve all written charges seeking discharge, demotion, or other disciplinary measures provided in this Act and to approve transfers of employees from one geographical area to another in the State.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**15 ILCS 410/8c (Duties and powers of the Commission)**

The Merit Commission, in addition to any other duties prescribed in this Act, shall have the following duties and powers:

9) To appoint such employees, experts and special assistants as may be necessary to carry out the powers and duties of the commission under this Act. Employees, experts and special assistants so appointed by the Commission shall be subject to jurisdictions A, B and C of this Act.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

Any individual hired is subject to a background check. Job applications ask for disclosure of criminal history, and Illinois State Police run background checks. There are no specific restrictions to employment based on such a check, but senior management reviews background checks to determine if offenses may be disqualifying. Since 02/01/2010, 91 individuals have been hired and all underwent criminal history background checks. No data is available as to the number of individuals not hired based on prior criminal history.

Cemetery Care and Burial Trust Department: Background checks are performed on the applicant if an individual; of every member if a partnership; of every member of the Board of Directors if an association; of every officer or director if a corporation AND of any party owning 10% or more of the cemetery/funeral/pre-need cemetery sales, or 25% for a crematory authority requesting licensure (pursuant to 760 ILCS 100/9 (2.1); 815 ILCS 390/6 (3); 225 ILCS 45/3 (5); 410 ILCS 18/11). The Illinois Department of Financial and Professional Regulation, Attorney General, Secretary of State, Department of Revenue, and State Police perform the background checks. In the past two years 118 individuals have had background check

# OFFICE OF THE GOVERNOR

## Government Services/Constitutional Office

**FY14 Headcount: 99**

<http://www2.illinois.gov/gov/Pages/default.aspx>

### **Summary of Agency Operations**

The Governor manages the executive branch of government. With the advice and consent of the Illinois Senate, the Governor appoints key administrators to boards, commissions and agencies. Additionally, the office works with the legislative branch to prepare and pass the annual state budget and enact new laws.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Service workers in the Governor's Mansion: Chefs, Butlers, Housekeepers, Horticulturalists, Banquet Servers, for the purpose of ensuring the safety of elected officials.

#### **Statutory, Regulatory Restrictions Applicable to Internal Hiring**

None

#### **Policy Restrictions Applicable to Internal Hiring**

Executive Protection Unit policies for ensuring safety of elected officials

#### **System of personnel administration**

Under authority of Executive Protection Unit for restricted positions, per agency's report to the Task Force

#### **Background Check Procedures:**

##### **1) Self-disclosure on application**

Not mentioned in agency report

##### **2) Background check review procedure**

Criminal history checks are conducted by Illinois State Police

##### **3) In-house review procedures**

Criteria for disqualification are determined by Executive Protection, with no recourse. Criteria may be adopted according to credible threats against elected officials.

#### **Exemption, waiver, or review mechanisms**

None

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

35

None disqualified

## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

### **Contracting restrictions based on criminal history, by statute or regulation**

#### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Governor's Office reported one restricted place of employment, the Governor's Mansion. Service workers in that setting are subject to criminal background checks, under the authorization of Executive Protection. Criminal history checks are conducted by the State Police. Executive Protection makes final determinations of credible threats against elected officials, with no recourse upon denial of candidate's application.

# OFFICE OF THE LIEUTENANT GOVERNOR

## Government Services/Constitutional Office

FY14 Headcount: 21

<http://www2.illinois.gov/ltgov/Pages/default.aspx>

### **Summary of Agency Operations**

The Office of the Lieutenant Governor's diverse duties derive from the governor, statute and personal initiative. These duties include serving as chair of the Governor's Rural Affairs Council, the Interagency Military Base Support and Economic Development Committee, and the three Illinois River, Mississippi River, and Wabash and Ohio Rivers Coordinating Councils. The current lieutenant governor acts as the governor's point person on education reform and serves as the ambassador to Illinois Main Street.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

No restrictions for employees of the Office of Lt. Governor.

#### **Statutory restrictions applicable to internal hiring**

None

#### **System of personnel administration**

Non-Personnel Code agency

#### **Criminal history record check procedures**

- 1) **Self-disclosure on application**  
Not mentioned in agency report
- 2) **Background check review procedure**  
Not mentioned in agency report

#### **Exemption, waiver, or review mechanisms**

None specified in agency's report to the Task Force

#### **Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to Task Force

### **Occupational Licensing, Certification, Regulation**

N/A

### **Employment Contracting**

N/A



### **Summary of Employment Restrictions from Agency Report**

All board, commission, or subcommittee appointments made by the Lt. Governor (not enumerated) are subject to criminal-records based background checks. This is based on office policy, which does not enumerate any disqualifying offenses; instead, disqualifying offenses are determined on a case-by-case basis. The Illinois State Police conducts the background check, and the Chief of Staff and General Counsel review the information to determine qualification. This procedure was adopted in 2011, and no applicants have been disqualified as a result.

**SECRETARY OF STATE**  
**Government Services/Constitutional Office**  
**FY14 Headcount: 3,701**

<http://www.cyberdriveillinois.com/>

**SUMMARY OF AGENCY OPERATIONS:**

The Secretary of State (SOS) maintains Illinois' official records and the state seal as its constitutional duty. The office maintains the 28 buildings on the Capitol Complex, oversees the state's network of libraries and preserves some of the state's most historic documents. The office is best known for issuing driver's licenses and license plates, which account for about 60 percent of the office's annual revenues.

**Internal Hiring**

**Agency positions subject to restrictions based on criminal history**

**This agency is subject to personnel or non personnel code.**

This is a non personal code agency

**Employment background information:**

**15 ILCS 310/10b.3 (Eligible lists)**

For the establishment of eligible lists for appointment to positions in the Office of the Secretary of State upon which lists shall be placed the names of successful candidates in order of their relative excellence in the respective examinations. The Director may establish eligible list by numerical ratings or rankings such as superior, excellent, qualified or well-qualified. Such rules may provide for lists by area or location, for removal of those not available for or refusing employment, for minimum and maximum duration of such lists, and for such other provisions as may be necessary.

**15 ILCS 310/10b.4 (Rejection of candidates or eligibles)**

For the rejection of candidates or eligibles who fail to comply with reasonable, previously specified job requirements of the Director in regard to such factors as physical and psychological condition, training and experience; who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to controlled substances; or who have attempted any deception or fraud in connection with an examination.

**Statutory Restrictions Applicable to Internal Hiring:**

**15 ILCS 305/14 (Inspector General)**

(b) The Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in statute

### **15 ILCS 310/10b.1 (Competitive examinations)**

(a) For open competitive examinations to test the relative fitness of applicants for the respective positions. Tests shall be designed to eliminate those who are not qualified for entrance into the Office of the Secretary of State and to discover the relative fitness of those who are qualified. The Director may use any one of or any combination of the following examination methods which in his judgment best serves this end: investigation of education and experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical skill; test of psychological fitness. No person with a record of misdemeanor convictions except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012, or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment unless the person is attempting to qualify for a position which would give him the powers of a peace officer, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. All examinations shall be announced publicly at least 2 weeks in advance of the date of examinations and may be advertised through the press, radio or other media.

The Director may, at his discretion, accept the results of competitive examinations conducted by any merit system established by Federal law or by the law of any State, and may compile eligible lists there from or may add the names of successful candidates in examinations conducted by those merit systems to existing eligible lists in accordance with their respective ratings. No person who is a non-resident of the State of Illinois may be appointed from those eligible lists, however, unless the requirement that applicants be residents of the State of Illinois is waived by the Director of Personnel and unless there are less than 3 Illinois residents available for appointment from the appropriate eligible list. The results of the examinations conducted by other merit systems may not be used unless they are comparable in difficulty and comprehensiveness to examinations conducted by the Department of Personnel for similar positions. Special linguistic options may also be established where deemed appropriate.

### **Administrative Code: Title 80, Subtitle B, Chapter II, Part 420 Sub part C, Section 420.300 Application and Examination**

#### **d. Removal of Names From Eligible Lists:**

2. The Director of Personnel may remove names from an eligible list, upon notice to the applicant, for reasons including but not limited to the following:

L. Conviction of an eligible applicant of a felony or of a crime that is relevant to the position for which the person is testing or being hired;

M. Conviction of a crime involving alcohol or drugs.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 80, Subtitle B, Chapter II, Part 420, Sub part C, Section 20.310 Appointment and Selection**

**d. Removal of Names From Eligible Lists:**

2. The Director of Personnel may remove names from an eligible list, upon notice to the applicant, for reasons including but not limited to the following:

L. Conviction of an eligible applicant of a felony or of a crime that is relevant to the position for which the person is testing or being hired;

M. Conviction of a crime involving alcohol or drugs.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Background Check Procedures:**

**(1) Self-disclosure on application**

Yes

**(2) background check review procedure**

**15 ILCS 310/10b.1 (Competitive examinations)**

(b) The Director of Personnel may require that each person seeking employment with the Secretary of State, as part of the application process, authorize an investigation to determine if the applicant has ever been convicted of a crime and if so, the disposition of those convictions; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Director of Personnel may request and receive information and assistance from any federal, state or local governmental agency as part of the authorized investigation. The investigation shall be undertaken after the fingerprinting of an applicant in the form and manner prescribed by the Department of State Police. The investigation shall consist of a criminal history records check performed by the Department of State Police and the Federal Bureau of Investigation, or some other entity that has the ability to check the applicant's fingerprints against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases. If the Department of State Police and the Federal Bureau of Investigation conduct an investigation directly for the Secretary of State's Office, then the Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall provide information concerning any criminal convictions, and their disposition, brought against the applicant or prospective employee of the Secretary of State upon request of the Department of Personnel when the request is made in the form and manner required by the Department of State Police. The information derived from this investigation, including the source of this information, and any conclusions or recommendations derived from this information by the Director of Personnel shall be provided to the applicant or prospective employee, or his designee, upon request to the Director of Personnel prior to any final action by the Director of Personnel on the application. No information obtained from such investigation may be placed in any automated information system. Any criminal convictions and their disposition information obtained by the Director of Personnel shall be confidential and may not be transmitted outside the Office of the Secretary of State, except as required herein, and may not be transmitted to

anyone within the Office of the Secretary of State except as needed for the purpose of evaluating the application. The only physical identity materials which the applicant or prospective employee can be required to provide the Director of Personnel are photographs or fingerprints; these shall be returned to the applicant or prospective employee upon request to the Director of Personnel, after the investigation has been completed and no copy of these materials may be kept by the Director of Personnel or any agency to which such identity materials were transmitted. Only information and standards which bear a reasonable and rational relation to the performance of an employee shall be used by the Director of Personnel. The Secretary of State shall adopt rules and regulations for the administration of this Section. Any employee of the Secretary of State who gives or causes to be given away any confidential information concerning any criminal convictions and their disposition of an applicant or prospective employee shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Exemption, waiver, or review mechanisms**

Not mentioned in the agency report

**Total number of people who underwent a background check**

Not mentioned in the agency report

**AGENCY occupational licensing restrictions based on criminal history:**

**Notary**

**5 ILCS 312/2-102 (Application)**

Every applicant for appointment and commission as a notary shall complete an application form furnished by the Secretary of State to be filed with the Secretary of State, stating:

(i) That the applicant has not been convicted of a felony

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**5 ILCS 312/3-103 (Notice)**

(g) If a notary public of this State is convicted of 2 or more business offenses involving a violation of this Act within a 12-month period while commissioned, or of 3 or more business offenses involving a violation of this Act within a 5-year period regardless of being commissioned, the Secretary shall automatically revoke the notary public commission of that person on the date that the person's most recent business offense conviction is entered as a final judgment.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**5 ILCS 312/7-108 (Revocation of Commission)**

The Secretary of State may revoke the commission of any notary public who, during the current term of appointment:

(b) is convicted of any felony or official misconduct under this Act.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

## **VEHICLE DEALERS, TRANSPORTERS, WRECKERS AND REBUILDERS**

### **625 ILCS 5/5-105 (Investigation of Licensee required)**

Every person seeking a license under Chapter 5 of this Act, as part of the application process, authorizes an investigation to determine if the applicant has ever been convicted of a crime and if so, the disposition of those convictions.

### **625 ILCS 5/5-301 (Automotive parts recyclers, scrap processors, repairers and rebuilders must be licensed)**

b. Any application filed with the Secretary of State, shall be duly verified by oath, in such form as the Secretary of State may by rule or regulation prescribe and shall contain:

4) A statement that the applicant's officers, directors, shareholders having a ten percent or greater ownership interest therein, proprietor, partner, member, officer, director, trustee, manager, or other principles in the business have not committed in the past three years any one violation as determined in any civil or criminal or administrative proceedings of any one of the following Acts:

e. Section 21-2 of the Criminal Code of 1961 or the Criminal Code of 2012, Criminal Trespass to Vehicle

**Restriction Type:** Mandatory

**Restriction Duration:** Have not committed in the past three years any one violation as determined in any civil or criminal or administrative proceedings

### **625 ILCS 5/5-501 (Denial, suspension or revocation or cancellation of a license)**

c. Cancellation of a license

2. The license of a person issued under this Chapter may be cancelled without a hearing when the Secretary of State is notified that the applicant, or any officer, director, shareholder having a 10 percent or greater ownership interest in the corporation, owner, partner, trustee, manager, employee or member of the applicant or the licensee has been convicted of any felony involving the selling, bartering, exchanging, offering for sale, or otherwise dealing in vehicles, chassis, essential parts, vehicle shells, or ownership documents relating to any of the above items.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

## **DRIVER'S LICENSE**

### **625 ILCS 5/6-103 (What persons shall not be licensed as drivers or granted permits)**

The Secretary of State shall not issue, renew, or allow the retention of any driver's license nor issue any permit under this Code:

10. To any person convicted, within 12 months of application for a license, of any of the sexual offenses enumerated in paragraph 2 of subsection (b) of Section 6-205

**Restriction Type:** Mandatory

**Restriction Duration:** Within 12 months of application for a license

12. To any person who has been either convicted of or adjudicated under the Juvenile Court Act of 1987 based upon a violation of the Cannabis Control Act, the Illinois Controlled Substance Act, or the Methamphetamine Control and Community Protection Act while that person was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of the motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. The Secretary of State shall not issue a new license or permit for a period of one year;

**Restriction Type:** Mandatory

**Restriction Duration:** The Secretary of State shall not issue a new license or permit for a period of one year

15. To any person released from a term of imprisonment for violating Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or a similar provision of a law of another state relating to reckless homicide or for violating subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of this Code relating to aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, within 24 months of release from a term of imprisonment

**Restriction Type:** Mandatory

**Restriction Duration:** Within 24 months of release from a term of imprisonment

The Secretary of State shall retain all conviction information, if the information is required to be held confidential under the Juvenile Court Act of 1987.

## **CHARTER BUS DRIVER ENDORCEMENT**

**Administrative Code:** Title 92, Chapter II, Part 1030 Section 1030.82 Third-Party Certification Program

a. Requirements of Driver Applicants for a Charter Bus Driver Endorsement

In order for the Department to issue a charter bus driver endorsement, all driver applicants must:

3. Submit to and successfully pass an Illinois specific criminal background check and Federal Bureau of Investigation criminal background check with current and future information through an approved vendor (A consent form must be signed by the driver applicant/CDL holder that allows the Department to release the fingerprint information to the driver applicant's employer.);

8. Not have been convicted of committing or attempting to commit any one or more of the offenses set forth in IVC Section 6-508(c-1)(4).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

## **SEASONAL RESTRICTED COMMERCIAL DRIVER'S LICENSE**

### **Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.96 Seasonal Restricted Commercial Driver's License**

a. In order to be eligible for a seasonal restricted CDL, the driver applicant must meet the following standards:

6. The driver applicant must not have been convicted of a "serious traffic violation" in any class of motor vehicle within two years prior to application for a restricted CDL;

**Restriction Type:** Mandatory

**Restriction Duration:** Within two years prior to application for a restricted CDL

g. A restricted CDL shall be invalidated and/or further action shall be taken against the individual's driving privileges if any of the following is received by the Department:

5. Reliable written report of a conviction of a "serious traffic violation" in any class of motor vehicle;

h. An individual whose restricted CDL has been invalidated shall not be eligible to apply for another restricted CDL until the expiration of two years from the effective date of the invalidation.

**Restriction Type:** Mandatory

**Restriction Duration:** Until the expiration of two years from the effective date of the invalidation.

## **PROBATIONARY LICENSE**

### **Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.120 Issuance of a Probationary License**

a. A person whose driving privileges have been suspended under IVC Section 6-206(a)(2) for conviction of not less than three offenses committed within a 12-month period against traffic regulations governing the movement of vehicles shall qualify for a probationary license if the individual meets the following requirements:

4. Has not previously or currently been arrested for an offense that requires mandatory revocation upon conviction, as stated in IVC Section 6-205.

**Restriction Type:** Mandatory

**Restriction Duration:** Within a 12-month period

### **Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.130 Grounds for Cancellation of a Probationary License**

a. A probationary license as defined in Section 1030.120 shall be canceled and/or further action taken against the individual's driving privileges if the Department receives:

2. Evidence that traffic convictions committed prior to the effective date of the suspension entered pursuant to IVC Section 6-206(a)(2) will result in the total points assessed against the individual's driving record exceeding 74 points within a 12-month period, as determined by the Illinois Offense Table (92 Ill. Adm. Code 1040.20).



**Restriction Type:** Mandatory

**Restriction Duration:** Within a 12-month period

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.25 Suspension or Revocation for Driving Without a Valid Driver's License**

a. When considering prior convictions, only convictions for driving without a valid driver's license within seven years prior to the arrest date of the incoming conviction shall be considered.

**Restriction Type:** Mandatory

**Restriction Duration:** Within seven years prior to the arrest date of the incoming conviction shall be considered.

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.35 Administrative Revocation for Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Based Upon a Local Ordinance Conviction**

a. Local ordinance conviction. A person who has been convicted of a local ordinance violation that is similar to any of those offenses in IVC Section 6-205 or 6-206 shall have his/her driving privileges revoked or suspended in the same manner as if he/she had been convicted of an offense contained within the Illinois Vehicle Code. An offense would be similar if the same elements were necessary to prove a local ordinance offense as are necessary to prove the offense as stated in the Illinois Vehicle Code.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.36 Suspension for Violation of Restrictions on Driver's License**

a. A person who is convicted of operating a motor vehicle in violation of the restrictions imposed on a driver's license shall have his/her driving privileges suspended by the Department. If a corrected driver's license that removes the restriction that was violated at the time of arrest is issued on or prior to the conviction date of the incoming conviction for a first offense of a driver's license restriction violation, no action shall be taken against the individual by the Department.

**Restriction Type:** Mandatory

**Restriction Duration:** (See action table which outlines the number of convictions and the actions taken in reference to those convictions)

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.37 Suspension for Violation of Restrictions on Instruction Permit**

a. A person who is convicted of operating a motor vehicle in violation of the restrictions imposed on an instruction permit shall have his/her driving privileges suspended by the Department. If a new driver's license is issued on or prior to the conviction date of the incoming conviction for a first offense of an instruction permit restriction violation, no action shall be taken against the individual by the Department.

**Restriction Type:** Mandatory

**Restriction Duration:** (See action table which outlines the number of convictions and the actions taken in reference to those convictions)

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.38 Commission of a Traffic Offense in Another State**

a. A person who has been convicted of a traffic offense in another state, that, if committed in this State, would be grounds for mandatory revocation pursuant to IVC Section 6-205 shall have his/her driving privileges revoked.

b. A person who has been convicted of a traffic offense in another state, that, if committed in this State, would be grounds for suspension or revocation pursuant to IVC Section 6-206, shall have his/her driving privileges reviewed, and shall be subject to the same action as if the offense had occurred within this State.

c. A person who has been convicted of a traffic offense in another state, that, if committed in this State, would be grounds for denial pursuant to IVC Section 6-107(c) or (d), shall have his/her driving privileges reviewed and shall be subject to the same action as if the offense had occurred within this State.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.40 Suspension or Revocation for Repeated Convictions or Collisions**

a. A person who has been repeatedly involved as a driver in motor vehicle accidents or repeatedly convicted of traffic offenses to a degree that indicates the lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle, or whose record indicates disrespect for traffic laws and the safety of other persons on the highway, shall be reviewed by the Department for possible driver's license and/or driving privilege suspension or revocation pursuant to IVC Section 6-206(a)(3). Upon review, if a determination is made by the Department that additional convictions accumulating 90 or more points have been received after the effective date of a 12-month suspension or revocation entered under Section 1040.30, or under this Section and the 90 or more additional or accumulated points were a result of convictions occurring during the same period of time as the convictions used for the 12-month suspension, the person's driving privileges shall be revoked pursuant to IVC Section 6-206(a)(3).

**Restriction Type:** Mandatory

**Restriction Duration:** If a determination is made by the Department that additional convictions accumulating 90 or more points have been received after the effective date of a 12-month suspension or revocation entered under Section 1040.30, or under this Section and the 90 or more additional or accumulated points were a result of convictions occurring during the same period of time as the convictions used for the 12-month suspension, the person's driving privileges shall be revoked pursuant to IVC Section 6-206(a)(3).

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.42 Suspension or Revocation for Fleeing and Eluding**

a. A person who has been convicted of fleeing or attempting to elude a peace officer in a motor vehicle shall have his/her driving privileges suspended or revoked by the Department.

g. When considering prior convictions, only convictions for fleeing or attempting to elude a peace officer with conviction dates within seven years prior to the forthcoming suspension's effective date shall be used.

**Restriction Type:** Mandatory

**Restriction Duration:** Within seven years prior to the forthcoming suspension's effective date

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.43 Suspension or Revocation for Illegal Transportation**

b. An individual who has two or more convictions, regardless of age at the time of arrest, and whose arrest dates fall within any 12-month period, for illegal transportation of alcohol as a driver, shall have his/her driving privileges suspended or revoked by the Department.

**Restriction Type:** Mandatory

**Restriction Duration:** Within any 12-month period

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.46 Suspension or Revocation for Fatal Accident and Personal Injury Suspensions or Revocations**

a. The Department shall review accidents in which a fatality or personal injury has occurred and an individual has been convicted of a traffic offense in accordance with Section 1040.20. No action shall be taken by the Department unless the traffic accident report completed by a law enforcement officer indicates a fatality or a personal injury that has been designated as a Type A injury and the injured party was transported to a hospital. No action shall be taken in a personal injury case if the only Type A injury indicated was for the individual convicted of the traffic violation. Fatal accidents that occur on or after January 1, 2011 shall not be subject to subsections (a) through (g), but shall be subject to subsection (h).

g. Any person involved in a fatal accident who is convicted of an immediate action violation as defined in Section 1040.20 shall have his/her driving privileges revoked under the applicable IVC Section.

h. Any person who is convicted of an offense regulating the movement of traffic with an arrest date on or after 1-1-11 that resulted in proximate death of any person shall have his/her driving privileges revoked under the applicable IVC Section.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.50 Occupational Driving Permit**

d. Upon receipt by this Office of the fifth conviction within a 12-month period, if at least two of the convictions were issued for violations committed in his/her commercial vehicle, or a sixth conviction within a 12-month period was received and the permit was still valid, an Order of Cancellation shall be entered pursuant to IVC Section 6-206(c)(3).

**Restriction Type:** Mandatory

**Restriction Duration:** Within a 12-month period

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.55 Suspension or Revocation for Driver's License Classification Violations**

a. A person who is convicted of operating a motor vehicle without the proper license classification shall have his/her driving privileges suspended or revoked by the Department. If a new upgraded license has been issued for the proper classification of the vehicle being operated

at the time of arrest on or prior to the conviction date for a first offense of a license classification violation, no action shall be taken against the individual by the Department.

c. When considering prior convictions, only convictions for operating a motor vehicle without the proper license classification within seven years prior to the arrest date of the incoming conviction shall be considered.

**Restriction Type:** Mandatory

**Restriction Duration:** Classification within seven years prior to the arrest date of the incoming conviction

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.65 Offenses Occurring on Military Bases**

a. Reports of Conviction

1. All convictions for traffic offenses committed by an Illinois driver on a military base in the State of Illinois shall be reported to the Office of the Secretary of State by the Office of the Judge Advocate or other similar office from each base located in the State of Illinois on a form provided and prescribed by the Office of the Secretary of State.

2. All convictions for traffic offenses committed on a military base in the State of Illinois by an Illinois driver who is a civilian or military dependent that are adjudicated in a federal district court or by the U.S. Magistrate shall be reported by the federal district court clerk to the Office of the Secretary of State on a form provided and prescribed by the Office of the Secretary of State.

3. Reports of convictions received by the Office of the Secretary of State shall be entered upon the driver's record. Conviction shall mean that the case was disposed of or adjudicated by the U.S. District Court, the U.S. Magistrate, court-martial conviction, or non-judicial punishment pursuant to Article 15 of the Uniform Code of Military Justice (10 USC 810).

b. Revocation or Suspension Action to be Imposed

1. A person, military or civilian, who has been convicted of an offense on a military base that, if committed in this State, would be grounds for mandatory revocation pursuant to IVC Section 6-205, shall have his/her driving privileges revoked. However, the period of the sanction shall not be lessened by the return of driving privileges by the Armed Forces.

2. A person, military or civilian, who has been convicted of an offense on a military base that, if committed in this State, would be grounds for suspension or revocation pursuant to IVC Section 6-206, shall have his/her driving privileges reviewed and shall be subject to the same action as if the offenses had occurred within this State. However, the period of the sanction shall not be lessened by the return of driving privileges by the Armed Forces.

3. A military person who has been convicted under the Uniform Code of Military Justice of an offense similar to one of those listed in IVC Section 6-205 shall have his/her driving privileges reviewed in accordance with IVC Section 6-206(a)(24) and driving privileges may be suspended or revoked if the requirements of Section 6-206(a)(24) are met.

4. A civilian person who has been convicted in a federal district court for an offense listed in IVC Section 6-205 or 6-206 that would require suspension or revocation if committed in this State shall have the same sanction imposed as if the offenses had been reported by a State court. This action shall be taken in accordance with IVC Section 6-206(a)(6).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.66 Invalidation of a Restricted Driving Permit**

Upon receipt of one or more of the following documents from a circuit clerk's office or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate a Restricted Driving Permit (RDP):

d. a report of any disposition of court supervision or convictions for driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501, or a similar provision of a local ordinance, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, drag racing in violation of IVC Section 11-504, or street racing in violation of IVC Section 11-506.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.107 Suspension for Violation of Improperly Approaching a Stationary Emergency Vehicle**

a. If the Department receives a conviction for IVC Section 11-907(c), the Department shall take the following action:

**Restriction Type:** Mandatory

**Restriction Duration:** (See action table for a list of detailed convictions and the actions taken)

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.108 Suspension for Failure to Make Report of Vehicle Accident Violation**

a. A person who is convicted of violating IVC Section 11-406 for failure to make a report of a vehicle accident shall have his/her driving privileges suspended by the Department.

b. When considering prior convictions, only those convictions for failure to make a report of a vehicle accident that have an arrest date within seven years prior to the arrest date of the incoming conviction shall be considered.

**Restriction Type:** Mandatory

**Restriction Duration:** Within seven years prior to the arrest date of the incoming conviction

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.109 Suspension for Two or More Convictions for Railroad Crossing Violations**

An individual who has two or more convictions for violating IVC Section 11-1201 shall have his/her driving privileges suspended by the Department in accordance with IVC Section 6-206(a)(39).

**Restriction Type:** Mandatory

**Restriction Duration:** (See action table for a list of detailed convictions and the actions taken)

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.111 Suspension for Failure to Yield upon Entering a Construction or Maintenance Zone when Workers Are Present**

a. If a person has no open or pending suspensions or revocations and a conviction for violation of IVC Section 11-908(a-1) is received, the Department shall enter a 3-month suspension for a first or subsequent conviction, or, if a record of judgment is received, the length of the suspension shall be entered for the period specified by the court.

**Restriction Type:** Mandatory

**Restriction Duration:** 3-month suspension

b. If a person has one or more open or pending revocations and a conviction for violation of IVC Section 11-908(a-1) is received, the Department shall enter a 3-month suspension for a first or subsequent conviction, or, if a record of judgment is received, the length of the suspension shall be entered for the period specified by the court.

**Restriction Type:** Mandatory

**Restriction Duration:** 3-month suspension

c. If a person has one or more open or pending suspensions (excluding miscellaneous suspensions) and a conviction for a violation of IVC Section 11-908(a-1) is received, the Department shall enter a 3-month suspension, or, if a record of judgment is received, the length of the suspension shall be entered for the period specified by the court. The suspension shall become effective upon the latest provisional or projected termination date of the suspension on record.

**Restriction Type:** Mandatory

**Restriction Duration:** 3-month suspension

d. If a person has one or more open or pending suspensions (excluding miscellaneous suspensions) and an open or pending revocation and a conviction for a violation of IVC Section 11-908(a-1) is received, the Department shall enter a 3-month suspension for the first or subsequent conviction, or, if a record of judgment is received, the length of suspension shall be entered for the period specified by the court. The suspension shall become effective upon the latest provisional or projected termination date of the suspension on record.

**Restriction Type:** Mandatory

**Restriction Duration:** 3-month suspension

e. If the provisional termination date of an open suspension is in the past, the Department shall enter a 3-month suspension for the first or subsequent conviction, or, if a record of judgment is received, the length of the suspension shall be entered for the period specified by the court.

**Restriction Type:** Mandatory

**Restriction Duration:** 3-month suspension

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.115 Suspension for Theft of Motor Fuel**

a. A person who has been convicted of theft of motor fuel as defined in Section 16J-15 prior to August 21, 2007 or Section 16K-15 on or after August 21, 2007 of the Criminal Code of 1961 [720 ILCS 5/16J-15 or 16K-15] shall have his/her driving privileges suspended by the Department.

c. A conviction for theft of motor fuel may be considered with prior convictions only if the arrest date falls within seven years after any previous conviction for theft of motor fuel.

**Restriction Type:** Mandatory

**Restriction Duration:** Within seven years after any previous conviction for theft of motor fuel.

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.110 Bribery**

a. The Department shall, pursuant to IVC Section 6-103(16), deny for a period of 120 consecutive days the issuance of a driver's license and/or permit to any person who, with intent to influence any act related to the issuance of any driver's license or permit, promises or tenders to an employee of the Secretary of State's Office, the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer any part of a driver's license examination any property or personal advantage that person is not authorized by law to accept.

b. The Department shall, pursuant to IVC Section 6-103(16), invalidate for a period of 120 consecutive days the driver's license and/or permit of any person who, with intent to influence any act related to the issuance of any driver's license or permit, promises or tenders to an employee of the Secretary of State's Office, the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer any part of a driver's license examination any property or personal advantage that person is not authorized by law to accept. Any persons promising or tendering such property or personal advantage shall be disqualified from holding any class of driver's license or permit.

c. When any employee of the Secretary of State's Office, the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer any part of a driver's license examination is tendered a bribe or a bribe has been attempted as defined in Section 1040.1, the person bribed or attempted to be bribed shall immediately report the incident to authorized personnel, as defined in Section 1040.1. Authorized personnel shall immediately proceed in the following manner: complete the interview process; complete the designated bribery/attempted bribery form; and notify the appropriate staff of the bribery incident. All evidence collected from the incident shall be placed in a secure locked place. For purposes of this Section, the Department shall disqualify the individual for a designated time upon receipt of the prescribed bribery/attempted bribery form faxed by the authorized personnel.

**Restriction Type:** Mandatory

**Restriction Duration:** For a period of 120 consecutive days

**RELIGIOUS ORGANIZATION BUS DRIVER**

**625 ILCS 5/6-106.2 Religious organization bus driver**

A religious organization bus driver shall meet the following requirements:

5. Has not been conviction of any of the following offenses within 3 years of the date of application:

Sections 11-401 (leaving the scene of a traffic accident involving death or personal injury), 11-501 (driving under the influence), 11-503 (reckless driving), 11-504 (drag racing), and 11-506

(street racing) of this Code, or Section 9-3 (manslaughter or reckless homicide) and 12-5 (reckless conduct arising from use of a motor vehicle) of the Criminal Code of 1961 or the Criminal Code of 2012.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 3 years of the date of application

**Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.50 Bus Driver's Authority, Religious Organization and Senior Citizen Transportation**

b. In the event a religious organization bus or senior citizen transportation vehicle driver is convicted of any of the offenses listed in IVC Section 6-106.2(5) or 6-106.3(5), that person's authority to operate a religious organization bus or senior citizen transportation vehicle shall be removed in the following manner:

1. The Secretary of State shall notify the religious organization bus or senior citizen transportation vehicle driver he/she is no longer eligible to operate a religious organization bus or senior citizen transportation vehicle.
2. A licensee shall surrender his/her Illinois driver's license at a Driver Services Facility within 10 days after receiving notification in order to have the restriction to operate the religious organization bus or senior citizen transportation vehicle removed from the driver's license.
3. A corrected driver's license shall be issued to each eligible licensee and the applicant shall be charged a fee in accordance with IVC Section 6-118(a).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**SENIOR CITIZEN TRANSPORTATION DRIVER**

**625 ILCS 5/6-106.3 (Senior citizen transportation – driver**

A driver of a vehicle operated solely for the purpose of providing transportation for the elderly in connection with the activities of any public or private organization shall meet the following requirements:

5. Has not been conviction of any of the following offenses within 3 years of the date of application:

Sections 11-401 (leaving the scene of a traffic accident involving death or personal injury), 11-501 (driving under the influence), 11-503 (reckless driving), 11-504 (drag racing), and 11-506 (street racing) of this Code, or Section 9-3 (manslaughter or reckless homicide) and 12-5 (reckless conduct arising from use of a motor vehicle) of the Criminal Code of 1961 or the Criminal Code of 2012.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 3 years of the date of application

**Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.50 Bus Driver's Authority, Religious Organization and Senior Citizen Transportation**

b. In the event a religious organization bus or senior citizen transportation vehicle driver is convicted of any of the offenses listed in IVC Section 6-106.2(5) or 6-106.3(5), that person's



authority to operate a religious organization bus or senior citizen transportation vehicle shall be removed in the following manner:

1. The Secretary of State shall notify the religious organization bus or senior citizen transportation vehicle driver he/she is no longer eligible to operate a religious organization bus or senior citizen transportation vehicle.
2. A licensee shall surrender his/her Illinois driver's license at a Driver Services Facility within 10 days after receiving notification in order to have the restriction to operate the religious organization bus or senior citizen transportation vehicle removed from the driver's license.
3. A corrected driver's license shall be issued to each eligible licensee and the applicant shall be charged a fee in accordance with IVC Section 6-118(a).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

#### **FOR PROFIT RIDESHARING DRIVER**

##### **625 ILCS 5/6-106.4 (For-profit ridesharing arrangement – driver**

No person may drive a commuter van while it is being used for a for-profit ridesharing arrangement unless such person:

5. Has not been conviction of any of the following offenses within 3 years of the date of application:

Sections 11-401 (leaving the scene of a traffic accident involving death or personal injury), 11-501 (driving under the influence), 11-503 (reckless driving), 11-504 (drag racing), and 11-506 (street racing) of this Code, or Section 9-3 (manslaughter or reckless homicide) and 12-5 (reckless conduct arising from use of a motor vehicle) of the Criminal Code of 1961 or the Criminal Code of 2012.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 3 years of the date of application

#### **Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.55 Commuter Van Driver Operating a For-Profit Ridesharing Arrangement**

d. In the event a for-profit ridesharing arrangement driver is convicted of any of the offenses listed in IVC Section 6-106.4(5), that person's authority to operate a for-profit ridesharing arrangement vehicle shall be removed in the following manner:

- 1) The Secretary of State shall notify the for-profit ridesharing arrangement driver he/she is no longer eligible to operate a for-profit ridesharing arrangement vehicle.
- 2) The licensee shall surrender the Illinois driver's license at the Driver Services Facility within 10 days after receiving the notification in order to have the restriction to operate a for-profit ridesharing arrangement vehicle removed from the driver's license.
- 3) A corrected driver's license shall be issued to each eligible licensee and the applicant will be charged a fee in accordance with IVC Section 6-118(a).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

## **DRIVER TRAINING INSTRUCTORS**

### **625 ILCS 5/6-411 (Qualifications of Driver Training Instructors)**

In order to qualify for a license as an instructor for a driving school, an applicant must:

(a) Be of good moral character

(b) Authorize an investigation to include a fingerprint based background check to determine if the applicant has ever been convicted of a crime

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the statute

### **Administrative Code: Title 92, Chapter II, Part 1060 Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License**

a. The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

2. To any person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license

**Restriction Type:** Mandatory

**Restriction Duration:** Within the 2 year period immediately preceding the date of application

3. To any person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding the date of application for an instructor's license

**Restriction Type:** Mandatory

**Restriction Duration:** Within the 2 year period immediately preceding the date of application

4. To any person who has been conviction of driving under the influence of alcohol and/or other drugs, pursuant to IVC Section 11-501, leaving the scene of a fatal accident, pursuant to IVC Section 11-401, reckless homicide, pursuant to Section 9-3 of the Criminal Code of 2012 [720 ILCS 5/9-3], reckless driving, pursuant to IVC Section 11-503, or any sex or drug related offenses within 10 years prior to the date of application; or to any person with more than one of these conviction

**Restriction Type:** Mandatory

**Restriction Duration:** Within the 10 year period immediately preceding the date of application

b. If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor, including for use at an administrative hearing should one be requested.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

13. To any person who is not of good moral character as required pursuant to IVC Section 6-411(a). In making a determination of good moral character, the Department is not limited to, but may consider the following:

a. If the person has been convicted of a felony or misdemeanor. The Department shall consider:

i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school;

ii) The length of time that has elapsed since the owner's last criminal conviction

iii) Whether the applicant successfully completed any sentence imposed with the convictions;

iv) Whether the applicant successfully completed any sentence imposed with the convictions;

b. If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor, including for use at an administrative hearing should one be requested.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the statute

**625 ILCS 5/6-420 (Denial, cancellation, suspension, revocation and failure to renew license)**

The Secretary may deny, cancel, suspend or revoke, or refuse to renew any driver training school license or any driver training instructor license:

(7) Whenever the licensee is convicted of driving while under the influence of alcohol, other drugs, or a combination thereof; leaving the scene of an accident; reckless homicide or reckless driving

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

**Administrative Code: Title 92, Chapter II, Part 1060 Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License**

a. The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

2) To any person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license;

**Restriction Type:** Mandatory

**Restriction Duration:** Within the 2 year period immediately preceding the date of application for an instructor's license

3) To any person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding the date of application for an instructor's license;

**Restriction Type:** Mandatory

**Restriction Duration:** Within the 2 year period immediately preceding the date of application for an instructor's license

4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to IVC Section 11-501, leaving the scene of a fatal accident, pursuant to IVC Section 11-401, reckless homicide, pursuant to Section 9-3 of the Criminal Code of 2012 [720 ILCS 5/9-3], reckless driving, pursuant to IVC Section 11-503, or any sex or drug related offense within 10 years prior to the date of application; or to any person with more than one of these convictions.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 10 years prior to the date of application; or to any person with more than one of these convictions

## **SCHOOL BUS DRIVER**

### **625 ILCS 5/6-508 (Commercial driver's license (CDL) – qualification standards**

(c-1) The Secretary may issue a CDL with a school bus driver endorsement to allow a person to drive the type of bus described in subsection (d-5) of Section 6-104 of this Code. The CDL with a school bus driver endorsement may be issued only to a person meeting the following requirements:

(4) the person has not been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Section 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-5.1, 10-6, 10-7, 10-9, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6, 11-9, 11-9.1, 11-9.3, 11-9.4, 11-14, 11-14.1, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22, 11-23, 11-24, 11-25, 11-26, 11-30, 12-2.6, 12-3.1, 12-4, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-4.9, 12-5.01, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-7.5, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 12C-5, 12C-10, 12C-20, 12C-30, 12C-45, 16-16, 16-16.1, 18-1, 18-2, 18-3, 18-4, 18-5, 19-6, 20-1, 20-1.1, 20-1.2, 20-1.3, 20-2, 24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.6, 24-1.7, 24-2.1, 24-3.3, 24-3.5, 24-3.8, 24-3.9, 31A-1, 31A-1.1, 33A-2, and 33D-1, and in subsection (b) of Section 8-1, and in subdivisions (a)(1), (a)(2), (b)(1), (e)(1), (e)(2), (e)(3), (e)(4), and (f)(1) of Section 12-3.05, and in subsection (a) and subsection (b), clause (1), of Section 12-4, and in subsection (A), clauses (a) and (b), of Section 24-3, and those offenses contained in Article 29D of the Criminal Code of 1961 or the Criminal Code of 2012; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act or Section 11-9.1A of the Criminal Code of 1961 or the Criminal Code of 2012; (vii) those offenses defined in Section 6-16 of the Liquor Control Act of 1934; and (viii) those offenses defined in the Methamphetamine Precursor Control Act.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**(From 625 ILCS 5/6-104 referenced in 625 ILCS 5/6-508)**

d-5) No person may drive a bus that does not meet the special requirements for school buses provided in Sections 12-801, 12-802, 12-803, and 12-805 of this Code that has been chartered for the sole purpose of transporting students regularly enrolled in grade 12 or below to or from interscholastic athletic or interscholastic or school sponsored activities unless the person has a valid and properly classified commercial driver's license as provided in subsection (c-1) of Section 6-508 of this Code in addition to any other permit or license that is required to operate that bus. This subsection (d-5) does not apply to any bus driver employed by a public transportation provider authorized to conduct local or interurban transportation of passengers when the bus is not traveling a specific school bus route but is on a regularly scheduled route for the transporting of other fare paying passengers.

**Administrative Code: Title 92, Chapter II, Part 1035 Section 1035.15 Requirements of applicants for a School Bus Driver Permit**

In order for the Secretary of State to issue a school bus driver permit, all applicants must:

j. not have been under an order of court supervision for or convicted, within 3 years prior to the date of application, of reckless driving (see IVC Section 11-503), aggravated reckless driving, driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (see IVC Section 11-501) or reckless homicide (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3]) resulting from the operation of a motor vehicle

**Restriction Type:** Mandatory

**Restriction Duration:** Within 3 years prior to the date of application

**Administrative Code: Title 92, Chapter II, Part 1035 Section 1035.15 Requirements of applicants for a School Bus Driver Permit**

In order for the Secretary of State to issue a school bus driver permit, all applicants must:

l. Not have been convicted of committing or attempting to commit any one or more of the offenses set forth in IVC Section 6-106.1(a)(11)

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

m. Not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway in accordance with 92 Ill. Adm. Code 1040.40;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**Administrative Code: Title 92, Chapter II, Part 1035 Section 1035.35 Denial, Cancellation, or Suspension of a School Bus Driver Permit**

a. The Secretary of State shall deny or cancel a school bus driver permit of an applicant:

1) Whose criminal background investigation discloses that he or she is not in compliance with any of the provisions of IVC Section 6-106.1(a)

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**ENHANCED SKILLS DRIVING SCHOOL INSTRUCTORS**

**625 ILCS 5/6-1004 (Qualifications of enhanced skills driving school instructors)**

In order to qualify for a license as an instructor for an enhanced skills driving school, an applicant must:

(a) Be of good moral character

(b) Have never been convicted of driving while under the influence of alcohol, other drugs, or a combination thereof; leaving the scene of an accident; reckless homicide or reckless driving

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in statute

**625 ILCS 5/6-1009 (Denial, cancellation, suspension, revocation, and failure to renew license)**

The Secretary may deny, cancel, suspend or revoke, or refuse to renew any enhanced skills driving school license or any enhanced skills driving school instructor license:

(6) Whenever the licensee is convicted of driving while under the influence of alcohol, other drugs, or a combination thereof; leaving the scene of an accident; reckless homicide or reckless driving.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in statute

**INVESTMENT ADVISERS**

**815 ILCS 5/8 (Registration of dealers, limited Canadian dealers, salespersons, investment advisers, and investment adviser representatives)**

A. Except as otherwise provided in this subsection A, every dealer, limited Canadian dealer, salesperson, investment adviser, and investment adviser representative shall be registered as such with the Secretary of State. No dealer or salesperson need be registered as such when offering or selling securities in transactions exempted by subsection A, B, C, D, E, G, H, I, J, K, M, O, P, Q, R or S of Section 4 of this Act, provided that such dealer or salesperson is not regularly engaged in the business of offering or selling securities in reliance upon the exemption set forth in subsection G or M of Section 4 of this Act. No dealer, issuer or controlling person shall employ a salesperson unless such salesperson is registered as such with the Secretary of State or is employed for the purpose of offering or selling securities solely in transactions exempted by subsection A, B, C, D, E, G, H, I, J, K, L, M, O, P, Q, R or S of Section 4 of this Act; provided that such salesperson need not be registered when effecting transactions in this State limited to those transactions described in Section 15(h)(2) of the Federal 1934 Act or engaging in the offer or sale of securities in respect of which he or she has beneficial ownership and is a controlling

person. The Secretary of State may, by rule, regulation or order and subject to such terms, conditions, and fees as may be prescribed in such rule, regulation or order, exempt from the registration requirements of this Section 8 any investment adviser, if the Secretary of State shall find that such registration is not necessary in the public interest by reason of the small number of clients or otherwise limited character of operation of such investment adviser.

B. An application for registration as a dealer or limited Canadian dealer, executed, verified, or authenticated by or on behalf of the applicant, shall be filed with the Secretary of State, in such form as the Secretary of State may by rule, regulation or order prescribe, setting forth or accompanied by:

(4) (a) A brief description of any civil or criminal proceeding of which fraud is an essential element pending against the applicant and whether the applicant has ever been convicted of a felony, or of any misdemeanor of which fraud is an essential element

**Restriction Type:** Mandatory

**Restriction Type:** Not mentioned in statute

**Administrative Code: Title 14, Subtitle A, Chapter I, Part 130, Sub part B, Section 130.212  
Definition of Acts not Constituting an “Offer” Under Section 2.5A of the Act (Testing the Waters)**

a. The solicitation of indications of interest to purchase a security made by or on behalf of an issuer for the sole purpose of soliciting an indication of interest in receiving a prospectus (or its equivalent) for such security does not constitute an offer under Section 5 of the Act provided that all of the following conditions are satisfied:

9. The solicitor does not know, and in the exercise of reasonable care, could not know that the issuer or any of the issuer's officers, directors, ten percent shareholders, partners, members or promoters (or any person performing a similar function):

b. Has been convicted within five years prior to the filing of the Solicitation of Interest Form of any felony or misdemeanor in connection with the offer, purchase or sale of any security, or any felony involving fraud or deceit, including, without limitation, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud.

The prohibitions listed above in subsections (a)(9)(A) through (E) of this Section shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the dealer employing such party is registered in this State and the Form BD filed with this State discloses the order, conviction, judgment or decree relating to such person. No person disqualified under this Section may act in a capacity other than that for which the person is registered. Any disqualification caused by this Section is automatically waived if the agency which created the basis for the disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 14, Subtitle A, Chapter I, Part 130 Sub part D, Section 130.420  
Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act**

a. Any offer or sale of securities offered or sold in compliance with the Federal 1933 Act, Regulation D, Rules 230.501-230.503 and 230.505 (17 CFR 230.501-230.503 and 230.505 (May 31, 2011)) and that satisfies the following further conditions and limitations is an exempt transaction.

1) No exemption under this Section shall be available for the securities of any issuer if any of the parties described in the Federal 1933 Act, Regulation A, Rule 230.262 Sections (a), (b) and (c) (17 CFR 230.262(a), (b) and (c) (May 31, 2011)).

b. Has been convicted within five years prior to the filing of the notice required under this exemption of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud

**Restriction Type:** Mandatory

**Restriction Duration:** Within five years prior to the filling of the notice required under this exemption of any felony or misdemeanor in connection with the offer

**Administrative Code: Title 14, Subtitle A, Chapter I, Part 130 Sub part H, Section 130.823  
Procedure for Requesting Waiver of Dealer, Salesperson, Investment Adviser, Investment Adviser Representative, or Principal Examination Requirements**

a. If a person applying for registration as a dealer, salesperson, investment adviser, investment adviser representative, or principal seeks a waiver of the examination requirements as provided in Section 8 of the Act, the request for the waiver shall be in writing on a form and in the manner prescribed by the Secretary.

c. The request shall be signed and notarized. By signing the waiver request, the applicant is attesting to the following (unless a detailed explanation is attached):

3. The applicant has never been convicted of any felony or misdemeanor involving the purchase or sale of any securities or arising out of any conduct as an investment adviser, investment adviser representative, federal covered investment adviser, federal covered investment adviser representative, dealer, salesperson, employee thereof or employee of any investment company, financial institution or insurance company;

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**LOAN BROKER**

**815 ILCS 175/15-40 (Denial, suspension or revocation of registration; orders and hearing)**

(a) The Secretary of State may deny, suspend or revoke the registration of a loan broker if the loan broker:

(5) Has been convicted, within 10 years before the date of the application, renewal or review, of any crime involving fraud or deceit.



**Restriction Type:** Discretionary

**Restriction Duration:** Within 10 years before the date of the application

**Business Broker**

**815 ILCS 307/10-40 (Denial, suspension or revocation of registration; orders and hearing)**

(a) The Secretary of State may deny, suspend or revoke the registration of a business broker if the business broker:

(4) Has been convicted, within 10 years before the date of the application, renewal or review, of any crime involving fraud or deceit.

**Restriction Type:** Discretionary

**Restriction Duration:** Within 10 years before the date of the application

**REMITTANCE AGENT'S LICENSE**

**Administrative Code: Title 92, Chapter II, Part 1019 Section 1019.30 Suspension and Revocation of Remittance Agents' Licenses**

c. A person shall have his/her remittance agent's license revoked under the following circumstances:

4. He/she is guilty of violating any provision of Chapters 2, 3 or 4 of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, pars. 2-101 et seq., 3-100 et seq., and 4-100 et seq.) or the Use Tax Act (Ill. Rev. Stat. 1987, ch. 95½, par. 439.1 et seq.) or the Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 95½, par. 439.101 et seq.);

6. He/she has been convicted of a felony.

e. A revocation shall be for at least one year. The remittance agent shall be notified by certified mail that his/her license to operate as a remittance agent is going to be revoked. The notice shall contain the effective date of the revocation, the violation which is the cause of the revocation, and how he/she can contest the revocation. The remittance agent shall be given ten (10) days from the date of the notice before the revocation will become effective. In order to be reinstated following a revocation, the person shall request an administrative hearing as provided in 92 Ill. Adm. Code 1001 et seq. The person's remittance agent license shall not be restored until the Secretary is satisfied that he/she will comply with the provisions of Article IX of Chapter 3 of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code and is of good business integrity.

f. If a person wishes to contest the suspension or revocation of his/her remittance agent's license, he/she shall request an administrative hearing pursuant to Section 3-907 of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-907) and 92 Ill. Adm. Code 1001.

**Restriction Type:** Mandatory

**Restriction Duration:** A revocation shall be for at least one year.

## **SAFETY OFFICER LICENSE**

### **Administrative Code: Title 92, Chapter II, Part 1030 Section 1030.60 Third-Party Certification Program**

i. Safety Officer

2. Denial of License

The Department shall deny a safety officer's license upon evidence the individual:

A. has been convicted of driving under the influence of alcohol and/or other drugs (see IVC Section 11-501), leaving the scene of a fatal accident (see IVC Section 11-401), reckless homicide (see Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3]), reckless driving (see IVC Section 11-503), or similar out-of-state offenses within 10 years prior to the date of application; or has been convicted two or more times of any of these offenses or combination of these offenses within 20 years prior to the date of application.

**Restriction Type:** Mandatory

**Restriction Duration:** Within 10 years prior to the date of application; or has been convicted two or more times of any of these offenses or combination of these offenses within 20 years prior to the date of application.

### **Administrative Code: Title 92, Chapter II, Part 1070 Section 1070.110 Illinois Safety and Family Financial Responsibility Law**

e. Invalidity of FFRP

1. Upon receipt of any of the following documents from a circuit clerk, law enforcement agency or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate an FFRP:

b. a report of any disposition of court supervision or conviction for reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 or a similar provision of a local ordinance, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401, or street racing in violation of IVC Section 11-506

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

### **Administrative Code: Title 92, Chapter II, Part 1001 Sub part D, Section 1001.300 Applicability**

o. Fourth Conviction. Pursuant to Section 6-208(b)4, the Secretary of State will not issue a restricted driving permit to any person who has a fourth conviction and revocation for the offenses listed in that Section and who is, therefore, not eligible to apply for the reinstatement of driving privileges, if the arrest that resulted in the fourth conviction was made after the effective date of P.A. 90-738 (1/1/99).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1001 Sub part D, Section 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits**

a. Burden of Proof. Petitioners who are not eligible for reinstatement of driving privileges at the time of their hearing must prove that there is no reasonable alternative means of transportation available, that they will not endanger the public safety and welfare, and that an undue hardship will result if they are not issued a restricted driving permit (RDP). The Secretary of State does not weigh the nature or extent of a petitioner's hardship against the risk he/she poses to the public safety and welfare. Rather, the petitioner must first carry his/her burden of proving that he/she will not endanger the public safety and welfare in order for the Secretary of State to consider whether the petitioner has an undue hardship.

o. Fourth Conviction. Pursuant to Section 6-208(b)4, the Secretary of State will not issue a restricted driving permit to any person who has a fourth conviction and revocation for the offenses listed in that Section and who is, therefore, not eligible to apply for the reinstatement of driving privileges, if the arrest that resulted in the fourth conviction was made after the effective date of P.A. 90-738 (1/1/99).

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1001 Sub part D, Section 1001.444 Monitoring Device Driving Permit (MDDP) Provisions**

a. Breath Alcohol Ignition Interlock Device (BAIID) Required for Issuance; Fee Required

4) Any MDDP shall be invalid and must be surrendered to the Secretary if an MDDP holder's driving privileges subsequently are suspended, revoked, cancelled or become otherwise invalid under any provision of the IVC, during the issuance period of the MDDP. This includes a conviction and subsequent revocation of driving privileges for the DUI arrest that resulted in the issuance of the MDDP. The MDDP offender may petition, at a formal hearing conducted pursuant to Section 2-118 of the IVC, for a restricted driving permit during the period of suspension, revocation, cancellation or invalidation, if available pursuant to the IVC. In order to obtain a restricted driving permit pursuant to this Section, the MDDP offender must also satisfy the other provisions of this Part. Further, should a restricted driving permit be granted, the MDDP offender may only operate vehicles in which a properly working BAIID has been installed and is subject to all of the provisions of the BAIID program.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**Administrative Code: Title 92, Chapter II, Part 1040 Section 1040.32 Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently**

a. The Secretary of State has discretionary authority to suspend or revoke the driving privileges of any person upon receipt of evidence that the person has committed one or more of the following offenses listed in IVC Section 6-206.

9. If any person has been convicted of violating Section 6-20(c) of the Liquor Control Act of 1934, the Department shall take the following action pursuant to IVC Section 6-206(a)(38):

**Restriction Type:** Mandatory

**Restriction Duration:** (See the above administrative code for a list of conviction and the actions taken)

**EMPLOYMENT contracting restrictions based on criminal history:**

**15 ILCS 310/6a (Director - powers and duties)**

The Director shall have the following duties and responsibilities:

(9) To enter into agreements with professional or educational organizations or the Illinois State Department of Central Management Services for the purpose of obtaining professional or technical assistance in the administration of this Act.

**625 ILCS 5/6-106.11**

(a) Any individual, corporation, partnership or association, who through contractual arrangements with a school district transports students, teachers or other personnel of that district for compensation, shall not permit any person to operate a school bus or any other motor vehicle requiring a school bus driver permit pursuant to that contract if the driver has not complied with the provisions of Sections 6-106.1 of this Code or such other rules or regulations that the Secretary of State may prescribe for the classification, restriction or licensing of the school bus driver permit holder.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed statute

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

**INTERNAL AGENCY HIRING**

All job titles within the Secretary of State's Office are subject to criminal background checks. The statutory employment restrictions and authority for conducting such background checks and taking the resulting actions is section 10 b.1.(a) & (b) of the Secretary of State Merit Employment Code. Other violations of the law are considered on a case by case basis as it relates to the crime and the position the person is seeking.

Criminal history information is gathered through the application process and upon an offer of conditional employment, through a finger print based background search.

Based on the finger print background search, reports are generated by the Illinois Bureau of Investigation (IBI) and the Federal Bureau of Investigation (FBI). Once received, the reports are reviewed by the staff to determine if there is any negative criminal history, further research is conducted to determine the nature of the crime, including a review of the employment application. Once all the information is gathered it is reviewed by the Director of the Department of Personnel, or a designee and a decision is made as to how to proceed.

The basic review process was adopted after Secretary White took office in 1999, to make sure no employee has criminal convictions which could be relevant to the performance of his or her duties.

Once a determination is made that an applicant may be bypassed for the position he or she is seeking, and notice is sent to the applicant, an applicant can submit a rebuttal or statement of

explanation to the Director of Personnel seeking to appeal the decision to by-pass. A review of the rebuttal or statement is conducted and a final determination is made as to whether the original decision shall stand. There is no administrative or judicial appeal process that exists at this time.

3547 employees are currently employed. All of the employees hired since 1999 were subject to a criminal background check.

1 applicant in 2010 was disqualified, which is .04% of the total backgrounds conducted.

5 applicants in 2011 were disqualified which is 1.5% of the total backgrounds conducted.

## **OCCUPATIONAL LICENSING / REGULATION**

Responses were provided for the Departments of the Secretary of State and each occupation they regulate, as listed below:

### **A. Driver Services:**

1. Driving School Owner and Driver Training Instructor
2. School and Charter Bus Drivers
3. Commercial Motor Vehicle Drivers with a Hazardous Materials

### **Endorsement**

The statutes and regulations that authorize the restrictions of applicants were enumerated. There are no time limits for any of the disqualifying offenses. All initial applicants are required to participate in finger-print based background check through both the Illinois State Police and FBI. Applicants that are denied have the right to appeal the determination with the Secretary of State Department of Administrative Hearings.

School Bus Drivers who were subject to background check:

25,566 in 2010; 24,783 in 2011

The number of bus drivers found disqualified:

262 (2 percent) in 2010; 299 (3 percent) in 2011

### **B. Securities**

1. Broker Dealers
2. Salespersons of Broker Dealers
3. Investment Advisors
4. Representatives of Investment Advisors
5. Business Brokers
6. Loan Brokers
7. Business Opportunities Salespersons

### **C. Index**

1. Notary Public

### **D. Police**

1. Janitors at Driver's Facilities

### **E. Vehicle Services**

1. Motor Vehicle Dealer
2. Automotive Parts Recycler
3. Scrap Processors
4. Automotive Repairers
5. Automotive Rebuilders

**OFFICE OF THE STATE TREASURER**  
**Government Services/Constitutional Office**

**FY14 Headcount: 140**

<http://www.treasurer.il.gov/>

**SUMMARY OF AGENCY OPERATIONS:**

The Office of the Treasurer receives all taxes and fees collected by the state and invests them in financial institutions across the state. As the chief investment officer and custodian of funds, the treasurer ensures the liquidity, safety and profitability of more than 600 active funds. As the counter signer of warrants, the treasurer ensures sufficiency of funds. The treasurer also operates an investment pool for local governments.

**Internal Hiring:**

**Agency positions subject to restrictions based on criminal history**

None

**This agency is subject to personnel or non personnel code.**

This is a non personnel code agency

**Statutory Restrictions Applicable to Internal Hiring:**

**15 ILCS 510/9b (Merit and fitness)**

For positions in the Office of the Treasurer with respect to selection and tenure on a basis of merit and fitness, those matters specified in Sections 9b.1 through 9b.13.

The Division may, at its discretion, accept the results of examinations conducted by any merit system established by federal law or by the law of any state, and may compile lists of eligible candidates therefrom or may add the names of successful candidates in examinations conducted by those merit systems to existing lists of eligible candidates. No person who is a nonresident of the State of Illinois may be appointed from those eligible lists unless the requirement that the applicants be residents of the State of Illinois is waived by the Treasurer. Special linguistic requirements may also be established where deemed appropriate.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**15 ILCS 510/9b.3 (Rejection of candidates or eligibles)**

Rejection of candidates or eligibles. For the rejection of candidates or eligibles who fail to comply with reasonable, previously specified job requirements of the Division in regard to such factors as physical and psychological condition, training and experience; who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to controlled substances; or who have attempted any deception or fraud in connection with an examination.

**Restriction Type:** Discretionary

**Restriction Duration:** Not mentioned in the above listed statute

**Background Check Procedures:****15 ILCS 510/9b.1 (Investigation)**

For the requirement that each person seeking employment, as part of the application process, authorize background investigation to determine if the applicant has ever been convicted of a crime and if so, the disposition of those convictions; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Division of Personnel may request and receive information and assistance from any federal, State or local government agency as part of the authorized investigation.

**(1) Self-disclosure on application****(2) background check review procedure**

Background screening may be conducted by the Illinois State Police or the Executive Inspector General

The Director of Human Resources will initiate discretionary background screenings for applicants under consideration for full-time, part-time, contractual, or temporary employment.

**Exemption, waiver, or review mechanisms**

The Director of Human Resources will review background reports and may refer them to the General Counsel for legal interpretation.

**Total number of people who underwent a background check**

54

**AGENCY occupational licensing restrictions based on criminal history:**

None

**EMPLOYMENT contracting restrictions based on criminal history:****Administrative Code: Title 44, Subtitle B, Chapter XXI, Part 1400, Subpart J, Section 1400.5010 Bribery****a. Prohibition**

No person or business will be awarded a contract or subcontract under this Part who:

1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in the officer's or employee's official capacity; or

2) Has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

**c. Conduct on Behalf of Business**

For the purpose of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business will be chargeable with the conduct.

**Restriction Type:** Mandatory

**Restriction Duration:** Not mentioned in the above listed administrative code

**(Procurement Rules) (Ethics)**

**Administrative Code: Title 44, Subtitle B, Chapter XXI, Part 1400, Subpart J, Section 1440.5015 Felons**

Unless otherwise provided, no person or business convicted of a felony may do business with the Treasurer's office from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

**Restriction Type:** Mandatory

**Restriction Duration:** 5 years after the date of completion of the sentence for that felony

**SUMMARY OF EMPLOYMENT RESTRICTIONS FROM AGENCY REPORT:**

New employees will be subject to criminal background screening. The Director of Human Resources will initiate discretionary background screenings for applicants under consideration for full-time, part-time, contractual, or temporary employment. Background screening may be conducted by the Illinois State Police or the Executive Inspector General. The Director of Human Resources will review background reports and may refer them to the General Counsel for legal interpretation.

Number of actual applicants who underwent criminal background checks: 54

Number of actual applicants who were deemed disqualified: 1

Number of applicants seeking waiver: 0

Number of applicants denied waiver: N/A



# **POLLUTION CONTROL BOARD**

## **Environment and Business Regulations/Executive Agency**

**FY14 Headcount: 22**

<http://www.ipcb.state.il.us/>

### **Summary of Agency Operations**

*The Pollution Control Board is an independent agency created in 1970 by the Environmental Protection Act. Under the Act, the Board is responsible for adopting Illinois' environmental regulations and deciding contested environmental cases.*

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

None

#### **Authorization for restriction of applicant**

**i) Statutory restrictions applicable to internal hiring**

None

**j) Administrative rule restrictions applicable to internal hiring**

None

**k) Agency policy restrictions applicable to internal hiring**

None

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

**20) Self-disclosure on application**

Yes (CMS 100 and Request for Release of Information forms), per agency's report to the Task Force

**21) How criminal history is obtained**

Per agency's report to the Task force," the Board does not itself conduct criminal background checks. This is the responsibility of CMS for agencies under the Governor's Office."

**22) In-house review procedure**

None (see #2 above)

#### **Exemption, waiver, or review mechanisms for applicants**

None referenced in agency's report to the Task Force

## **Number of job applicants who were subject to a criminal history records check in 2010-2011**

According to the agency's report to the Task Force, "the Board does not itself conduct criminal background checks."

## **Occupational Licensing, Certification, Regulation**

### **Occupational licenses issued subject to criminal history restrictions**

Emissions Reduction Market Systems Account Officer; Vehicle Scrappage Manager

### **Authorization for restriction of occupational license applicants**

**Administrative Rule:** Title 35, Subtitle B, Chapter I, Part 205, Sub part F, Section 205.620. **Account Officer.** Each **Emissions Reduction Market Systems Account Officer** shall satisfy all of the following: 3) Have **not been convicted of** or had a final judgment entered against him or her in any State or federal court for a violation of State or federal air pollution laws or regulations, or for **fraud**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit

**Administrative Rule:** Title 35, Subtitle B, Chapter I, Part 207, Section 207.700. **Qualifications for Vehicle Scrappage Managers.** b) Any natural person may qualify to be a vehicle scrappage manager if he or she meets the following criteria: 3) **Has never been convicted of** or had a final judgment entered against him or her in any State or federal court for a violation of State or federal air pollution laws or regulations, for **fraud or for felony theft.**

**Restriction Type:** Mandatory

**Restriction Duration:** No time limit

## **Employment Contracting**

### **Contracting restrictions based on criminal history, by statute or regulation**

#### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

## **Summary of Employment Restrictions from Agency Report**

The Pollution Control Board hiring practice follows CMS rules and policies, and the Board has no policies, rules, or practices of its own regarding employment restriction. In addition, under

the Environmental Protection Act the Board does not license, regulate, supervise, or fund any facilities, and it does not license or certify any occupations or professional practices.

# **PROPERTY TAX APPEAL BOARD**

## **Government Services/Executive Agency**

**FY14 Headcount: 39**

<http://www.state.il.us/agency/ptab/>

### **Summary of Agency Operations**

The Property Tax Appeal Board (PTAB) is a quasi-judicial body that determines the correct assessment of property based on a fair and impartial hearing before a professional staff of administrative law judges. Appeals are conducted according to official rules and practices established by the board.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history**

Agency policy to conduct a criminal history record check on all employee titles:

Senior Public Service Administrator; Public Service Administrator; Public Service Administrator; Executive 2; Administrative Assistant 1 and 2; Information System Analyst 2; Information Specialists 1 and 2; Technical Advisor 2 and 3; Appraisal Specialist 2 and 3; Private Secretary; Office Administrator 3; Office Coordinator; Office Associate; Office Assistant

#### **Statutory restrictions applicable to internal hiring**

None

Policy restrictions located in Employee handbook, stated as “agency discretion in determining disqualifying offenses”

#### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

#### **Criminal history record check procedures**

##### **1) Self-disclosure on application**

Yes (CMS 100 and Request for Release of Information forms), per agency’s report to the Task Force

##### **2) Background check review procedure**

Disqualifying offenses not listed in Department policy (Employee handbook). Per agency report to the Task Force, the Board makes an individualized assessment of each candidate and job position.

#### **Exemption, waiver, or review mechanisms**

None referenced in agency’s report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not stated in agency's report to the Task Force  
**Occupational Licensing, Certification, Regulation**  
N/A

### **Agency Contracting**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

- 30 ILCS 500/50-2 (Continuing disclosure; false certification)
- 30 ILCS 500/50-5 (Bribery)
- 30 ILCS 500/50-5 (c) (Conduct on behalf of business)
- 30 ILCS 500/50-10 (Felons)
- 30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The Property Tax Appeal Board (PTAB) identifies candidates' criminal history information through the Examining/Employment Application (CMS100) and the Illinois State Police Request for Release of Information.

The Property Tax Appeal Board has not had an occasion to review any criminal record provided by an applicant or by the Illinois State Police.

# OFFICE OF THE STATE FIRE MARSHAL

## Public Safety/Executive Agency

**FY14 Headcount: 137**

[www.sfm.illinois.gov](http://www.sfm.illinois.gov)

### **Summary of Agency Operations**

The Office of the Illinois State Fire Marshal (OSFM) improves safety by increasing public awareness about fire hazards, public safety codes and fire prevention, while also enhancing firefighting and emergency response capabilities in local communities. OSFM personnel are committed to protecting the citizens of Illinois and property from fire and explosions through inspections, investigations, training, education and providing assistance to local fire departments. OSFM licenses elevator contractors, pyrotechnic operators and distributors, and arson investigators.

### **Internal Hiring**

#### **Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

All candidates for employment within OSFM, per agency policy.

#### **Statutory, regulatory restrictions applicable to internal hiring**

None

#### **Agency policy restrictions applicable to internal hiring**

Yes

### **System of personnel administration**

Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

### **Criminal history record check procedures**

#### **23) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

#### **24) How criminal history is obtained**

Criminal history checks conducted by Illinois State Police

#### **25) In-house review procedure**

Per agency's report to the Task Force, a review policy that enumerates disqualifying offenses and other criteria has not been drawn up because candidates have not had any criminal backgrounds.

### **Exemption, waiver, or review mechanisms for applicants**

Per agency's report to the Task Force, "there are no formal exemption, waiver or review mechanisms in place for any of the programs/professions discussed herein. Largely, this lack of review mechanisms is driven by a lack of applicants with a criminal history."

## Number of job applicants who were subject to a criminal history records check in 2010-2011

10

### Occupational Licensing, Certification, Regulation

#### Occupational licenses issued by agency that are subject to criminal history restrictions

Elevator contractor license; Pyrotechnic Distributors and Operators; Arson Investigator, including Arson Investigator Trainee, I and II

#### Statutory restrictions applicable to occupational licensing

**Elevator Safety and Regulation Act [225 ILCS 312/40 (b)(8)]** Any person, firm, or company wishing to engage in the business of installing, altering, repairing, servicing, replacing, or maintaining elevators, dumbwaiters, escalators, or moving walks within this State shall make application for a license with the Administrator. (b) All applications shall contain the following information: (8) **any criminal record of convictions.**

**Restriction type:** Mandatory as to information to be provided, silent as to whether criminal history is a disqualifying criterion. Per agency's report to the Task Force, "OSFM Elevator Safety Division has never received an application disclosing such a history."

**Restriction duration:** No time limit specified

**Pyrotechnic Distributor and Operator Licensing Act. [225 ILCS 227/35]** Applicants for a license, who will act as lead operator, must **not be convicted in any jurisdiction of any felony within the prior 5 years.**

**Restriction type:** Mandatory

**Restriction duration:** Last 5 years

**Administrative rule 41 Ill. Adm. Code 230.100 (a)(9), (b)(8), (c)(8) and (d)(9)**

b) The pyrotechnic distributor shall submit to OSFM the applications of its employees applying for a lead pyrotechnic operator license; 3) A copy of a **current license or a Letter of Clearance from ATF** for the type of pyrotechnic service or pyrotechnic display provided. Proof that the applicant met the requirements of Section 230.65(a), (b) or (c), whichever is applicable to the respective license.

**A current DNR individual explosives license number** is required. The conditions of that license are:

Illinois Explosives Act [225 ILCS 210/2005] Qualifications for licensure. (a) No person shall qualify to hold a license who: (2) **has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;** (3) **is under indictment for a crime punishable by imprisonment for a term exceeding one year;** (4) **is a fugitive from justice;** (5) **is an unlawful user of or addicted to a controlled substance as defined in Section 102 of the federal Controlled Substances Act (21 U.S.C. Sec. 802 et seq.)**

**Restriction type:** Mandatory

**Restriction duration:** Not specified

**Illinois Peace Officer Training Act [50 ILCS 705/6(e)]** e. To review and approve applicants to ensure no applicant is admitted to a certified academy unless the applicant is a person of good character and **has not been convicted of a felony offense, any of the misdemeanors in Sections 11-1.50, 11-6, 11-9.1, 11-14, 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1, 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or the Criminal Code of 2012, subdivision (a)(1) or (a)(2)(C) of Section 11-14.3 of the Criminal Code of 1961 or the Criminal Code of 2012, or subsection (a) of Section 17-32 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 5 or 5.2 of the Cannabis Control Act, or a crime involving moral turpitude** under the laws of this State or any other state which if committed in this State would be punishable as a felony or a crime of moral turpitude. The [State Police Merit] Board may appoint investigators who shall enforce the duties conferred upon the Board by this Act.

**Restriction type:** Mandatory

**Restriction duration:** No limit specified

### **Criminal history record check procedures for occupational licenses**

**1) Self-disclosure on application**

Yes, on all license applications

**2) How criminal history is obtained**

Finger-print based criminal history checks conducted by Illinois State Police for Pyrotechnic and Arson Technician licenses

**3) In-house review procedure**

Reviewed by respective agencies for disqualifying convictions (all felonies; some misdemeanors for peace officer certification)

### **Exemption, waiver, or review mechanisms for occupational license applicants**

**Illinois Explosives Act [225 ILCS 210/2005]** (b) A person who has been granted a "relief from disabilities" regarding criminal convictions and indictments, pursuant to the federal Safe Explosives Act (18 U.S.C. Sec. 845) may receive a license provided all other qualifications under this Act are met. (Source: P.A. 96-1194, eff. 1-1-11.)

### **Number of license applicants who were subject to a criminal history records check in 2010-2011**

838

None found unqualified

None sought waiver

### **Employment Contracting**

#### **Contracting restrictions based on criminal history, by statute or regulation**

##### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)



30 ILCS 500/50-5 (c) (Conduct on behalf of business)  
30 ILCS 500/50-10 (Felons)  
30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

All applicants for positions in the Office of State Fire Marshall (OSFM) are required to complete the CMS 100 and Request for Release of Information form. Public Safety Shared Services submits the forms to the Illinois State Police to obtain criminal history records. OSFM has never had a candidate disqualified due to their criminal background, and as a consequence, has not developed policies defining disqualifying offenses and other criteria. Also, there are no formal review or waiver mechanism at OSFM, largely due to the fact that past job candidates have not had criminal records.

OSFM licenses several occupations, including elevator contractors, Pyrotechnic Operator, Distributor, Arson Investigator and Arson Investigator Trainee I and II. Elevator contractor license applicants answer a question about their prior criminal history, but are not subject to a background check. Pyrotechnic licenses are subject to a fingerprint based criminal history records check through the Illinois State Police. All applicants for Arson Investigator and Trainee must be sworn officers. As police officers, they must be free from felony convictions. OSFM leave the vetting of that to the Illinois State Police as a matter of their certification

# COMPREHENSIVE HEALTH INSURANCE PLAN

Human Services

FY14 Headcount: Unknown

<http://www.chip.state.il.us/default.htm>

## **Summary of Agency Operations**

The Comprehensive Health Insurance Plan (CHIP) provides health insurance coverage for Illinois residents through two coverage pools. The traditional pool, for medically uninsurable people, is funded by premiums and state general funds. People eligible for portability of coverage pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) are covered through the HIPAA pool, funded by premiums, insurance industry assessments and federal grant funds.

## **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

None

## **System of personnel administration**

### **Comprehensive Health Insurance Plan Act 215 ILCS 105/4**

i. [The Board shall] employ and fix the compensation of employees. Such employees may be paid on a warrant issued by the State Treasurer pursuant to a payroll voucher certified by the Board and drawn by the Comptroller against appropriations or trust funds held by the State Treasurer.

### **Background Check Procedures:**

#### **(1) Self-disclosure on application**

Not mentioned in agency report

#### **(2) Background check review procedure**

The agency does not conduct background checks, per agency's report

### **Exemption, waiver, or review mechanisms**

N/A

### **Total number of people who underwent a background check**

0

## **Occupational Licensing, Certification, Regulation**

**Occupational licenses issued by agency that are subject to criminal history restrictions**

N/A

## **Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

N/A

## **Summary of Employment Restrictions from Agency Report**

According to the Comprehensive Health Insurance Plan (CHIP) report to the Task Force, the CHIP Board has not set any restrictions on employee hiring, including any restrictions based on criminal records. Further, the agency does not conduct background checks on current or potential employees.

# ILLINOIS STATE POLICE MERIT BOARD

Public Safety/Executive agency

FY14 Headcount: 9

<http://www.illinoistrooper.com/>

## **Summary of Agency Operations**

The Illinois State Police Merit Board recruits diverse and qualified Illinois State Police candidates and certifies the best qualified persons based on validated assessment measures. The board also administers promotional processes and oversees disciplinary hearings for Illinois State Police officers in a just and expedient manner. The board bases all of its decisions exclusively on the merits of individuals and exercises the core values of honesty, integrity, equality and respect.

## **Internal Hiring**

**Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

None

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

## **System of personnel administration**

Subject to the Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **1) Self-disclosure on application**

Yes (CMS 100), per agency's report to the Task Force

### **2) Background check review procedure**

"CMS has the State Police conduct a background check", per agency report to the Task Force.

### **3) In-house review procedures**

N/A

## **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

0

## **Occupational Licensing, Certification, Regulation**

**Occupational licenses issued by agency that are subject to criminal history restrictions**

Illinois State Police Cadet (eligibility to be certified)

## **Statutory restrictions applicable to occupational licensing**

**State Police Act [20 ILCS 2610/9 (a).** Appointment and qualifications. All persons so certified for appointment of Department of State Police officers shall be of sound mind and body, be of good moral character, be citizens of the United States, **have no criminal records**, possess such prerequisites of training, education and experience as the Board shall from time to time prescribe.

**Restriction type: Mandatory**

**Restriction duration: No time limit set**

**Year restriction was adopted**

1949

**80 Ill. Adm. Code 150.210. Section 150.210 Qualifications.** Qualified candidates shall be a citizen of the United States **with no felony conviction**

**Restriction type: Mandatory**

**Restriction duration: No time limit set**

**Year restriction was adopted**

2006

### **Criminal history record check procedures on occupational license**

**Ill Admin Code, Section 150.220 4)** Background investigation and interview

No other details specified in agency's report to the Task Force

### **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of license applicants who were subject to a criminal history records check in 2010-2011**

Not reported

## **Employment Contracting**

### **Contracting restrictions based on criminal history, by statute or regulation**

#### **Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)

30 ILCS 500/50-5 (Bribery)

30 ILCS 500/50-5 (c) (Conduct on behalf of business)

30 ILCS 500/50-10 (Felons)

30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The Illinois State Police Merit Board does not conduct backgrounds checks and has no restrictions.

# **STATE EMPLOYEES' RETIREMENT SYSTEM**

**Government Services/Executive Agency**

**FY14 Headcount: Not available**

<https://www.srs.illinois.gov/>

## **Summary of Agency Operations**

The State Employees' Retirement System provides retirement annuities and other benefits to retired or disabled state employees. It is administered by a Board of 13 trustees.

## **Internal Hiring**

**Agency positions subject to restrictions based on criminal history, by statute, regulation or agency policy**

None

**Statutory, regulatory, agency policy restrictions applicable to internal hiring**

None

## **System of personnel administration**

Subject to the Personnel Code [20 ILCS 415]

See section IV. of this report for the enumerated criminal history restrictions in the Personnel Code related to being qualified for open competitive examinations and subsequent appointment.

## **Criminal history record check procedures**

### **1) Self-disclosure on application**

Yes (CMS 100)

### **2) How criminal history information is obtained**

### **3) Not stated on the agency report to the Task Force**

### **4) In-house review procedure**

Not stated on the agency report to the Task Force

## **Exemption, waiver, or review mechanisms**

None referenced in agency's report to the Task Force

**Number of job applicants who were subject to a criminal history records check in 2010-2011**

Not reported to the Task Force

## **Occupational Licensing, Certification, Regulation**

N/A

## **Employment Contracting**

**Contracting restrictions based on criminal history, by statute or regulation**

**Illinois Procurement Code [30 ILCS 500/]**

30 ILCS 500/50-2 (Continuing disclosure; false certification)  
30 ILCS 500/50-5 (Bribery)  
30 ILCS 500/50-5 (c) (Conduct on behalf of business)  
30 ILCS 500/50-10 (Felons)  
30 ILCS 500/50-10.5 (Prohibited bidders and contractors)

See section IV. of this report for a discussion of criminal history-based restrictions on contracting with the State in the Illinois Procurement Code.

### **Summary of Employment Restrictions from Agency Report**

The State Employees' Retirement System report stated it has no criminal history restrictions.



# STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## Education Agency

**FY14 Headcount: 13**

<http://www.sucss.state.il.us/>

### **Summary of Agency Operations**

The State Universities Civil Service System (University System) is provided authority through legislative statute and is empowered through the University Civil Service Merit Board to develop, maintain, and administer a comprehensive and efficient program of human resource administration for the higher education community, specifically related to the employment and employment relationship with their auxiliary and support staff positions. In accomplishing this task, the University System has developed a comprehensive set of Administrative Rules and Procedures which effectively facilitate the administration of many aspects of the employment relationship.

### **Internal Hiring**

**Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

Clerical positions, an attorney, IT manager, and other administrative employees

### **Statutory, regulatory restrictions applicable to internal hiring**

**Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.50**

**Examinations** c. Rejection or Disqualification of Applicants.

The employer may reject any applicant, or, after examination, the Executive Director may refuse to certify any candidate who, in addition to requirements specified in Section 36f of the State Universities Civil Service Act [110 ILCS 70/36f] and subsection (b), fails to pass a physical examination given to determine his/her physical qualifications for employment, uses intoxicating beverages to excess, **uses narcotics**, has been dismissed from either private or public service for a cause detrimental to his/her employment by an employer under the University System, has maintained an unsatisfactory employment record, **has practiced deception or fraud in his/her application, examination, or material pertaining to these, or has committed an offense that in the judgment of the Executive Director disqualifies him/her for employment.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

### **System of personnel administration**

State Universities Civil Service System oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

**Merit Board [100 ILCS 70/36b (3)]** The State Universities Civil Service System hereby created [110 ILCS 70/36b] shall be a separate entity of the State of Illinois and shall be under the control of a Board to be known as the University Civil Service Merit Board, and is hereinafter referred to as the Merit Board.

See Chapter IV of this report for more detail on this system of personnel administration.

**Criminal history record check procedures for internal hiring**

**1) Self-disclosure on application**

Yes

**2) Background check review procedure**

Per the agency's Personnel Manual, **2.4: Rejection or Disqualification:**

The Designated Employer Representative (DER) may consider the following factors to refuse to examine an applicant or after examination to disqualify an applicant from employment: the applicant has committed an offense, which in the judgment of the DER, disqualifies him or her for employment. For example the applicant has a documented felony or misdemeanor conviction and the DER finds that a relationship exists between the given bona fide occupational qualifications and the grounds for conviction. A criminal record does not necessarily disqualify an applicant from employment. Each applicant's conviction record must be evaluated on a case by case basis considering the type and seriousness of the crime, how much time has elapsed since the conviction, and the nature of the new employment position.

Pursuant to Public Act 93-0211, effective January 1, 2004, (20 ILCS 2630/12 (a)) and Public Act 93-0912, effective August 12, 2004, (705 ILCS 405/5-915 (8a)), respectively, applicants seeking employment are not obligated to disclose an arrest or conviction record that has been expunged or sealed, nor an expunged juvenile record. Employers may not ask if an applicant has had records expunged or sealed.

Please note that any provision of this procedure or the application thereof, must be considered in conjunction with other federal or state laws, rules or regulations and shall not be deemed to nullify or modify any additional responsibilities required of an employer when considering whether to reject or disqualify an applicant.

**Exemption, waiver, or review mechanisms**

Not specified in the agency's report to the Task Force

**Number of job applicants for agency positions who were subject to a criminal history records check in 2010-2011**

Not reported to the Task Force

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

N/A

### **Summary of Employment Restrictions from Agency Report**

Having a criminal record does not necessarily disqualify an applicant from employment, but may be used as a factor in considering eligibility. In the recent past, no applicant has been rejected due to criminal history.

The Director may refuse to certify any candidate who fails to pass a physical examination given to determine his physical qualifications for employment, uses intoxicating beverages to excess, uses narcotics, has been dismissed from either private or public service for detrimental conduct by an employer under the State Universities Civil Service System (System), has maintained an unsatisfactory employment record, has practiced deception or fraud in his application, examination, or material pertaining to these, or has committed an offense which in the judgment of the Director disqualifies him for employment. See also 110 ILCS 70, the State University Civil Service Act, and 80 Ill. Admin. Code 250, State Universities Civil Service System.

Applicants are not required to disclose an arrest or conviction record, or a juvenile record, that has been sealed or expunged. 20 ILCS 2630/12(a), entry of order and effect of expungement or sealing records; 705 ILCS 405/5-915(8a), Expungement of juvenile law enforcement and court records.

# STATE UNIVERSITY RETIREMENT SYSTEM OF ILLINOIS

## Education Agency

FY13 Headcount: 125

<http://www.surs.com/>

### **Summary of Agency Operations**

The State University Retirement System (SURS) of Illinois is a state agency that administers retirement, disability, death, and survivor benefits to eligible SURS participants and annuitants. Membership in SURS is attained through employment with more than 70 employing agencies including public universities, community colleges, and other qualified state agencies.

### **Internal Hiring**

#### **Agency positions subject to criminal history restrictions, by statute, regulation or agency policy**

All positions within the agency, per report to the Task Force. During 2010 and 2011, the following positions were hired: Investment Officer, Web Specialist, Member Service Representative I, General Counsel, Chief Financial Officer, Associate General Counsel, Director of Outreach, Applications Analyst, member Service Representative III, Legislative Specialist, Communications Manager, and Administrative Aide

#### **Statutory, regulatory restrictions applicable to internal hiring**

#### **Administrative Code, Title 80, Subtitle A, Chapter VI, Part 250, Section 250.50 Examinations**

##### **c. Rejection or Disqualification of Applicants.**

The employer may reject any applicant, or, after examination, the Executive Director may refuse to certify any candidate who, in addition to requirements specified in Section 36f of the State Universities Civil Service Act [110 ILCS 70/36f] and subsection (b), fails to pass a physical examination given to determine his/her physical qualifications for employment, uses intoxicating beverages to excess, **uses narcotics**, has been dismissed from either private or public service for a cause detrimental to his/her employment by an employer under the University System, has maintained an unsatisfactory employment record, **has practiced deception or fraud in his/her application, examination, or material pertaining to these, or has committed an offense that in the judgment of the Executive Director disqualifies him/her for employment.**

**Restriction Type:** Discretionary

**Restriction Duration:** Not specified

#### **System of personnel administration**

State Universities Civil Service System oversees the personnel administration for the non-exempt employees at public higher education agencies and institutions pursuant to the State Universities Civil Service Act (110 ILCS 70).

**Merit Board [100 ILCS 70/36b (3)]** The State Universities Civil Service System hereby created [110 ILCS 70/36b] shall be a separate entity of the State of Illinois and shall be under the control of a Board to be known as the University Civil Service Merit Board, and is hereinafter referred to as the Merit Board.

See Chapter IV of this report for more detail on this system of personnel administration.

**Criminal history record check procedures for internal hiring**

**1) Self-disclosure on application**

Yes

**2) Background check review procedure**

The State Universities Retirement System (SURS) conducts background checks on all applicants who are offered employment. If the applicant has a conviction record, a review committee consisting of representatives from Human Resources and General Counsel review the report. They consider the nature of the conviction, date of offense, and the position applied for. The applicant may submit additional information to the committee for review. The committee has the authority to approve the applicant for hire.

**Exemption, waiver, or review mechanisms**

Not specified in the agency's report to the Task Force

**Number of job applicants for agency positions who were subject to a criminal history records check in 2010-2011**

None, per agency's report to the Task Force

**Occupational Licensing, Certification, Regulation**

N/A

**Employment Contracting**

N/A

**Summary of Employment Restrictions from Agency Report**

All agency positions are subject to a criminal background check as part of the job application process, pursuant to the State Universities Civil Service Act (110 ILCS 70).

Between January 1, 2010 and December 31, 2011, all 21 new employees received criminal background checks. None of the hires sought waiver from or were disqualified by the criminal background check.



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