

ILLINOIS DEPARTMENT OF VETERANS' AFFAIRS

**REPORT ON THE IMPACT OF CRIMINAL
RECORDS-BASED RESTRICTIONS**

In Accordance with 20 ILCS 5000/15(d)

DATE: January 30, 2012

TO: Illinois Criminal Justice Information Authority (CJA.EmplRestrictions@Illinois.gov)

FROM: Illinois Department of Veterans' Affairs

SUBJECT: Report on the Impact of Criminal Records-Based Restrictions - Pursuant to 20 ILCS 5000/15(d)

Pursuant to the Task Force on Inventorying Employment Restrictions Act (20 ILCS¹ 5000/15(d)), the Illinois Department of Veterans' Affairs has prepared the Report on the Impact of Criminal Records-Based Restrictions. According to the Act: *"Each State agency shall participate in a review to determine the impact of the employment restrictions based on criminal records and the effectiveness of existing case-by-case review mechanisms. For each occupation under the agency's jurisdiction for which there are employment restrictions based on criminal records, each State agency must provide the Task Force with a report, on or before March 1, 2010, for the previous 2-year period."*

Section 15(d) of the Act has thirteen (13) subsections specifying the reporting requirements regarding the impact of employment restrictions based on criminal record. The 13 subsections are referenced and addressed individually.

(1) The total number of people currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks or restrictions. (20 ILCS 5000/15(d)(1))

As of December 31, 2011, the Department employed approximately 1,241 individuals. All Department full time, part-time, temporary, and emergency hires are subject to name-based criminal history background checks.

Further, as of December 31, 2011, approximately 636 of the 1,241 positions were direct-care worker positions where new hires are subject to more stringent background checks in accordance with the Health Care Workers Background Check Act (225 ILCS 46) and the Health Care Workers Background Check Code (77 Ill Adm. Code² 955). **See Attachments A and B.**

¹ ILCS: Illinois Compiled Statutes (www.ilga.gov)

² Ill Adm. Code: Illinois Administrative Code (www.ilga.gov)

The breakdown of the Department's 1,241 direct-care and non-direct-care staff by unit as of December 31, 2011 is as follows:

	Direct-Care	Non-Direct-Care	Total
Central Office	0	44	44
Field Services	0	75	75
Anna Veterans' Home	36	33	69
LaSalle Veterans' Home	120	81	201
Manteno Veterans' Home	200	110	310
Manteno-Homeless Program	0	9	9
Quincy Veterans' Home	280	246	526
State Approving Agency	0	5	5
Troops to Teachers	0	2	2
Department Total:	636	605	1241

The breakdown of the Department's 636 direct-care staff in occupations subject to health care background checks, by title and veterans home, as of December 31, 2011 is as follows:

	<u>Veterans' Home</u>				
	Anna	LaSalle	Manteno	Quincy	Total
Licensed Practical Nurse I	0	1	2	5	8
Licensed Practical Nurse II	5	8	26	48	87
Physical Therapy Aide II - Direct Care	0	0	0	4	4
Registered Nurse I	0	6	5	10	21
Registered Nurse II	7	27	44	45	123
Veterans Nursing Assistant - Certified	24	78	123	168	393
	36	120	200	280	636

(2) The number and percentage of individuals who underwent a criminal history background check. (20 ILCS 5000/15(d)(2))

There were approximately 342 name-based checks submitted to Illinois State Police (ISP) in 2010 and approximately 82 name-based checks submitted to ISP in 2011. The number of name-based checks for 2011 decreased significantly from 2010 due to direct care staff going through IDPH for healthcare worker background checks starting in March 2011. The total number of healthcare worker background checks submitted to IDPH was not available; however, there were approximately 190 new hires in occupations subject to healthcare worker background checks.

The breakdown of new hires subject to health care based background checks and criminal records-based restrictions for 2011 is as follows:

	Anna	LaSalle	Manteno	Quincy	Total
Licensed Practical Nurse I		1		2	3
Licensed Practical Nurse II		1	5	4	10
Physical Therapy Aide II - Direct Care		0		0	0
Registered Nurse I		1		3	4
Registered Nurse II	3	13	18	3	37
Veterans Nursing Assistant - Certified		38	40	58	136
Total:	3	54	63	70	190

The percentage of new hires who underwent a criminal history background check was 100%.

(3) The number and percentage of individuals who were merely required to disclose their criminal history without a criminal history background check. (20 ILCS 5000/15(d)(3))

All applicants (100%) are required to disclose their criminal history on the CMS-100 Application³. As 100% of hires are subject to a background check, the number of individuals who disclose their history without undergoing a background check would be the total number of applicants who were not hired. The Department does not maintain such statistics regarding the number of applicants who were not hired. **See Attachment C.**

Therefore, no employees were hired without a criminal history background check and the only individuals required to disclose their history without a background check are applicants that are not hired.

(4) The number and percentage of individuals who were found disqualified based on criminal history disclosure by the applicant. (20 ILCS 5000/15(d)(4))

The Department does not track this information.

(5) The number and percentage of individuals who were found disqualified based on a criminal history background check. (20 ILCS 5000/15(d)(5))

The Department does not track this information.

(6) The number and percentage of individuals who sought an exemption or waiver from the disqualification. (20 ILCS 5000/15(d)(6))

Direct-Care Occupations

³ CMS: Illinois Department of Central Management Services

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(7) 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). (20 ILCS 5000/15(d)(7))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(8) The number and percentage of individuals who sought an exemption or waiver who were subsequently granted the exemption or waiver at the next level of agency review (if multiple levels of review are available). (20 ILCS 5000/15(d)(8))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(9) The number and percentage of individuals who were denied an exemption or waiver at the final level of agency review, and then sought review through an administrative appeal. (20 ILCS 5000/15(d)(9))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(10) The number and percentage of individuals who were denied an exemption or waiver at the final level of agency review, and then sought review through an administrative appeal and were then found qualified after such a review. (20 ILCS 5000/15(d)(10))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(11) The number and percentage of individuals who were found disqualified where no waiver or exemption process is available. (20 ILCS 5000/15(d)(11))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process.
See Attachments D and E.

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(12) The number and percentage of individuals who were found disqualified where no waiver or exemption process is available and who sought administrative review and then were found qualified. (20 ILCS 5000/15(d)(12))

Direct-Care Occupations

Not available. Waivers and exemptions for direct care staff are reviewed and approved/denied externally by the Illinois Department of Public Health (IDPH). The Department has no involvement in this process. **See Attachments D and E.**

Non-Direct-Care Occupations

Not applicable. In regards to applicants for non-direct-care positions, the Department does not have a policy specifying disqualifying offenses or convictions, therefore an ineligibility waiver or exemption is not applicable. Criminal history is considered when hiring, but is not formally disqualifying.

(13) 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. (20 ILCS 5000/15(d)(13))

As of December 31, 2011, approximately 605 of the Department's 1,241 employees were in 105 total occupations that were not subject to formal criminal history based restrictions, yet are subject to criminal background checks as a Department practice for consideration in the hiring process. However, several of the individuals held licenses, and the licenses required the licensee to undergo health care workers background checks to both obtain and continually retain the license. Therefore, the license certifies the check was executed and the individual is eligible for employment.

The breakdown of licensed occupations by veterans' home is as follows:

	<u>Anna</u>	<u>LaSalle</u>	<u>Manteno</u>	<u>Quincy</u>	<u>Total</u>
Activity Therapist		1		4	5
Assistant Director of Nursing	1	1	1	1	4
Dietary Manager II		1		1	2
Director of Nursing	1	1	1	1	4
Home Administrator	1	1	1	1	4
Nursing Supervisor		4	6		10
Physical Therapy Aide II	2				2
Physical Therapy Aide III		4		1	5
Social Worker II		2		5	7
	5	15	9	14	43

As non-direct-care occupations are not subject to formal restrictions, the occupations are not listed here. However, all occupations are listed in IDVA's Criminal Records-Based Restrictions Report (20 ILCS 5000/15(c)) which has also been submitted to Illinois Criminal Justice Information Authority.

CONCLUSION

Please direct any questions to Edie Long, Assistant to the Director, at Edie.Long@illinois.gov. Ms. Long will ensure questions are routed to the appropriate respondent.