

PUBLIC ACT 097-0501

Section 5. The Task Force on Inventorying Employment Restrictions Act

- (a) The Task Force on Inventorying Employment Restrictions is hereby created in the Illinois Criminal Justice Information Authority. The purpose of the Task Force is to review the statutes, administrative rules, policies and practices that restrict employment of persons with a criminal history, as set out in subsection (c) of this Section, and to report to the Governor and the General Assembly those employment restrictions and their impact on employment opportunities for people with criminal records. The report shall also identify any employment restrictions that are not reasonably related to public safety.
- (b) Within 60 days after the effective date of this amendatory Act of the 97th General Assembly Act, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each appoint 2 members of the General Assembly to the Task Force. The term of office of any member of the public appointed by the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, or the Minority Leader of the House of Representatives serving on the effective date of this amendatory Act of the 97th General Assembly shall end on that date. The Governor shall appoint the Task Force chairperson. In addition, the Director or Secretary of each of the following, or his or her designee, are members: the Department of Human Services, the Department of Corrections, the Department of Commerce and Economic Opportunity, the Department of Children and Family Services, the Department of Human Rights, the Department of Central Management Services, the Department of Employment Security, the Department of Public Health, the Department of State Police, the Illinois State Board of Education, the Illinois Board of Higher Education, ~~and~~ the Illinois Community College Board, and the Illinois Criminal Justice Information Authority. Members shall not receive compensation. The Illinois Criminal Justice Information Authority shall provide staff and other assistance to the Task Force.
- (c) On or before November 1, 2011, ~~September 1, 2010~~, all State agencies shall produce a report for the Task Force that describes the employment restrictions that are based on criminal records for each occupation under the agency's jurisdiction and that of its boards, if any, including, but not

limited to, employment within the agency; employment in facilities licensed, regulated, supervised, or funded by the agency; employment pursuant to contracts with the agency; and employment in occupations that the agency licenses or provides certifications to practice. For each occupation subject to a criminal records-based restriction, the agency shall set forth the following:

- (1) the job title, occupation, job classification, or restricted place of employment, including the range of occupations affected in such places;
- (2) the statute, regulation, policy, and procedure that authorizes the restriction of applicants for employment and licensure, current employees, and current licenses;
- (3) the substance and terms of the restriction, and
 - (A) if the statute, regulation, policy or practice enumerates disqualifying offenses, a list of each disqualifying offense, the time limits for each offense, and the point in time when the time limit begins;
 - (B) if the statute, regulation, policy or practice does not enumerate disqualifying offenses and instead provides for agency discretion in determining disqualifying offenses, the criteria the agency has adopted to apply the disqualification to individual cases. Restrictions based on agency discretion include, but are not limited to, restrictions based on an offense "related to" the practice of a given profession; an offense or act of "moral turpitude"; and an offense evincing a lack of "good moral character".

RESPONSE - 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. 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.

- (4) the procedures used by the agency to identify an individual's criminal history, including but not limited to disclosures on applications and background checks conducted by law enforcement or private entities;

RESPONSE - Upon the receipt of a Release of Personal Information and a request for a background investigation for an employment applicant, 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.

- (5) the procedures used by the agency to determine and review whether an individual's criminal history disqualifies that individual;

RESPONSE - 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.

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:

Paragraph III.B.2.a. The applicant has not been convicted of a misdemeanor under the laws of this state or any other jurisdiction.

Paragraph III.B.2.b. 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.

20 ILCS 2630/5

Section 5. Arrest reports. All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints and descriptions of all persons who are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and Class A or B misdemeanors and of all minors of the age of 10 and over who have been arrested for an offense which would be a felony if committed by an adult, and may forward such fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations under the Illinois Vehicle Code shall not be reported except for violations of Chapter 4 (*Anti-theft laws and abandoned vehicles*), Section 11-204.1 (*Aggravating Fleeing and Eluding*), or Section 11-501 (*DUI*) of that Code. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported.

- (6) the year the restriction was adopted, and its rationale;

RESPONSE - Illinois State Police Directive PER-008, Employment Standards was created on 7/1/89. Illinois State Police is governed by Statute 20 ILCS 2630/5.

- (7) any exemption, waiver, or review mechanisms available to seek relief from the disqualification based on a showing of rehabilitation or otherwise, including the terms of the mechanism, the nature of the relief it affords, and whether an administrative and judicial appeal is authorized;

RESPONSE – in the Illinois State Police Employment Standards policy, An applicant for a position not barred under paragraph III.A. who has been convicted of a misdemeanor offense (as described on 20 ILCS 2630/5) may appeal to the Director for relief.

- (8) any statute, rule, policy and practice that requires an individual convicted of a felony to have his civil rights restored to become qualified for the job; and 9 copies of the following documents:
- (A) forms, applications, and instructions provided to applicants and those denied or terminated from jobs or licenses based on their criminal record;
 - (B) forms, rules, and procedures that the agency employs to provide notice of disqualification, to review applications subject to disqualification, and to provide for exemptions and appeals of disqualification;
 - (C) memos, guidance, instructions to staff, scoring criteria and other materials used by the agency to evaluate the criminal histories of applicants, licensees, and employees; and
 - (D) forms and notices used to explain waiver, exemption and appeals procedures for denial, suspensions and terminations of employment or licensure based on criminal history.

RESPONSE - Not applicable.

(d) 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. The information required under this subsection (d) shall be limited to the data and

information in the possession of the State agency on the effective date of this amendatory Act of the 97th General Assembly. With respect to compliance with the requirements of this subsection (d), a State agency is under no obligation to collect additional data or information. 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 February 1, 2012 ~~March 1, 2010~~, for the previous 2-year period, setting forth:

- (1) the total number of people currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks or restrictions;

RESPONSE – All employees. 3,140 for 2011, and 3,357 for 2010.

- (2) the number and percentage of individuals who underwent a criminal history background check;

RESPONSE – All employees, 100 percent. 3,140 for 2011, and 3,357 for 2010.

- (3) the number and percentage of individuals who were merely required to disclose their criminal history without a criminal history background check;

RESPONSE – None. All individuals applying for employment with the Illinois State Police are required to submit to a background check.

- (4) the number and percentage of individuals who were found disqualified based on criminal history disclosure by the applicant;

RESPONSE – None.

- (5) the number and percentage of individuals who were found disqualified based on a criminal history background check;

RESPONSE - There were three (3) individuals disqualified in 2010 based on criminal history information which was .007 percent of backgrounds completed. There were two (2) individuals disqualified in 2011 based on criminal history information which was .003 percent of backgrounds completed.

- (6) the number and percentage of individuals who sought

an exemption or waiver from the disqualification;

RESPONSE – None.

- (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);

RESPONSE – None.

- (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);

RESPONSE – None.

- (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;

RESPONSE – None.

- (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;

RESPONSE – None.

- (11) the number and percentage of individuals who were found disqualified where no waiver or exemption process is available;

RESPONSE - There were no individuals who were disqualified where no waiver or exemption process was available.

- (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; and

RESPONSE – None.

- (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.

RESPONSE – All employees are subject to criminal history restrictions.

(e) (Blank). ~~The Task Force shall report its findings and recommendations to the Governor and the General Assembly by December 31, 2010.~~

(f) The Task Force shall report to the Governor and the General Assembly its findings, including recommendations as to any employment restrictions that are not reasonably related to public safety, by September 1, 2012.