

# **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,

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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

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### 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), 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.

#### 2) 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

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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

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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 Hyman 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]);

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- 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

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- 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