

Final Draft 5/23/2013

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, 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. It is the opinion of this committee that a conviction inquiry on the initial application creates a disparate impact.

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." We recommend the removal of question 9(b) from the current CMS100 application.

June 5, 2013

### State Hiring Continuum of Agencies

<b>Statutory/regulatory Restrictions for employees</b>	<b>Written policy restrictions</b>	<b>Background checks conducted, not specific criteria Includes agencies that “follow CMS procedures”</b>	<b>Self- disclosure on application solely (or primarily)</b>	<b>No statute, rule, policy; no background checks conducted (per agency report)</b>	<b>Report silent on internal hiring procedures</b>
<b>11 agencies</b>	<b>1 agency</b>	<b>45 agencies</b>	<b>2 agencies</b>	<b>15 agencies</b>	<b>1 agency</b>
Department of Children and Family Services (direct service; police positions)	Office of the Governor (mansion restricted place, service workers subject to authority of Executive Protection Unit)	Central Management Services	Auditor General	Capital Development Board	Office of the Lieutenant Governor
Department of Employment Security (for attorneys)		Department of Children and Family Services (non-direct service positions)	Illinois Finance Authority	Department of Labor	
Department of Human Services (direct care positions)		Department of Corrections		Guardianship and Advocacy Commission (transfers from other state agencies)	
Department of Military Affairs (Federal Security clearance required)		Department of Employment Security		Civil Service Commission	
Department of Natural Resources (conservation police)		Department of Healthcare and Family Services		Illinois Deaf and Hard of Hearing Commission (has authority, does not exercise)	
Department of Public Health (certified nurses assistants)		Department of Human Rights		Illinois Department of Financial and Professional	

				Regulation	
Department of Veterans Affairs (direct care workers)		Department of Juvenile Justice		Illinois Department on Aging	
Guardianship and Advocacy Commission (guardians)		Department of Natural Resources		Illinois Human Rights Commission	
Illinois Emergency Management Agency (attorneys)		Department of Public Health		Illinois Law Enforcement Training and Standards Board	
Illinois Gaming Board (all positions)		Department of Revenue		Prisoner Review Board (other than restrictions in CMS personnel code)	
Illinois State Police (all positions)		Department of Transportation		Office of State Appellate Defender	
		Department of Veterans Affairs (non-direct care workers)		Office of States Attorneys Appellate Prosecutor	
		Historic Preservation Agency		State Comprehensive Health Insurance Plan	
		Illinois Arts Council		State Police Merit Board	
		Illinois Board of Higher Education		State Retirement System	
		Illinois Commerce Commission			
		Illinois Community College Board			
		Illinois Council on Developmental Disabilities			
		Illinois Criminal Justice Information Authority			
		Department of Agriculture			
		Illinois Commerce and Economic			

		Development			
		Illinois Educational Labor Relations Board			
		Illinois Emergency Management Agency			
		Illinois Environmental Protection Agency			
		Illinois Housing development Authority (private investigator used for background checks)			
		Illinois Labor Relations Board			
		Illinois Liquor Control Commission			
		Illinois Lottery			
		Illinois State Board of Education (fingerprints)			
		Illinois State Board of Investment			
		Illinois State Toll Highway Authority			
		Illinois Student Assistance Commission			
		Illinois Teachers Retirement System			
		Illinois Worker Compensation Commission			
		Office of Management and Budget			

		Office of Attorney General			
		Office of the Comptroller			
		Office of the Secretary of State			
		Office of the State Treasurer			
		Pollution Control Board			
		Property Tax Appeal Board			
		State Board of Elections			
		State Fire Marshall			
		State Universities Civil Service System			
		State Universities Retirement System			

## Illinois State Agencies, Boards and Commissions

### **22 Non-personnel Code Agencies Included in the Inventory Project Statute**

#### **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

