

**REQUEST FOR RELEASE
OF INFORMATION**

TO: Director
Illinois State Police

I, _____, do hereby authorize the Illinois State Police to release information relative to the existence or nonexistence of any conviction 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. I further authorize any agency which maintains records relating to me to provide same on request to the Illinois State Police for the purpose of this investigation.

I certify that the Illinois State Police, and its officers or employees who furnish this information concerning me, and any agency and its officers and employees which provides these records to the Illinois State Police, shall not be held accountable for giving this information. I do hereby release and save harmless the Illinois State Police, its officers and employees, and any other agency and its officers and employees which provides records concerning me for the purpose of this investigation, from any and all liability which may be incurred as a result of releasing such information.

A photocopy of this release form will be valid as an original thereof, even though the said photocopy does not contain an original writing of my signature.

I have read and understand the contents of this Request for Release of Information.

Witness

Signature (include maiden name)

Address

City, State

Zip Code

Date of Birth

Social Security Number

Drivers License Number

APPLICANT BACKGROUND INFORMATION

It is the policy of the State of Illinois not to consider the criminal history of an application for state employment unless:

Federal or state law prohibits hiring individuals with certain criminal convictions for the position that applicant is seeking. Or,

For certain convictions that are related to the position sought, when denial of employment is based on that criminal record is consistent with a business necessity.

Have you ever been convicted of a criminal offense other than a minor traffic violation?

Yes

No

Please Explain:

DRAFT

If you are denied a position or removed from the applicant pool because of a criminal record, you will receive a written notification of your denial and you will have the right to appeal the decision through an administrative review process. You will have an opportunity to provide additional information before a final decision is made.

Signature

Date

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 Employment Re-Entry 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.¹

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 Task Force 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 employer's 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.

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

DATE: April 13, 2013

TO: Inventorying Employment Restrictions Task Force

FROM: State Hiring Assessment Workgroup

SUBJECT: DRAFT State Hiring Assessment Recommendations

After a rigorous and careful review of the state's employment application, guidelines and policies regarding criminal backgrounds, we recommend the following actions be taken in an effort to attract and not deter individuals from the application process for state employment. Compliance with EEOC's recently issued Enforcement Guidance is mandated for all State Agencies.

1. All State Agencies that utilize the CMS 100, the employment application, will see Section 9 B removed from the employment application. Agencies that do not use the CMS 100 will have to remove any question(s) about an applicant's criminal history from applications for employment.
2. All State Agencies must adhere to a statewide policy that would prohibit criminal background checks until after an applicant has been interviewed for and has been conditionally offered a position. Criminal background checks will be allowed only after the candidate has been deemed eligible and given a conditional offer of employment. This policy will also apply to Bulk Hiring.
3. All State Agencies will utilize the standard criminal background check release form to ensure that each release is only requesting information that the agency may legally consider. For example, a release form should not request information regarding an applicant's arrest record. However, conduct which indicates unsuitability for a particular position is a basis for exclusion. Where it appears that the applicant engaged in the conduct for which she/he was convicted and that the conduct is job-related and relatively recent, exclusion is justified.

All State Agencies will adopt a uniform addendum to the state criminal background check release form, as attached, that clearly informs the applicant that it is the policy of the State of Illinois not to consider the criminal history of an applicant for state employment unless: Federal or state law prohibits hiring individuals with certain criminal convictions for the position that an applicant is seeking; or, for certain convictions that are directly related to the position sought and denial of employment, based on that criminal record, is consistent with a business necessity.

4. Administrative Review Process

Every State Agency will be responsible for establishing uniform guidelines when evaluating criminal record information. When hiring for a specific position, the agency must:

- A. Identify essential job requirements and the actual circumstances under which the duties are performed, and
- B. Determine the specific offenses that may determine the unfitness for performing such duties.

In order to determine whether a specific offense may determine unfitness for performing a position, the agency must consider:

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

5. Appeal Process

All State Agencies will need to develop a process that clearly informs the applicant that she/he may be excluded due to their past criminal conduct and provides an opportunity for the applicant to demonstrate that the exclusion should not apply to her/him. Consider whether the applicant's background, and additional or mitigating information provided by the applicant, indicates that the denial of the applicant was not due to the conviction being directly related to the job sought and not consistent with business necessity.

To ensure the efficient consideration of appeals, applicants – after receiving notice of their right to appeal – will have 5 days to respond by providing records or documents that will impact the hiring decision.

- 6. Train all agency human resources department staff and hiring managers on the new state policy on hiring people with criminal records.
- 7. Develop a unit to oversee and maintain the statutory bars database. Every Agency will be responsible for identifying bars that apply to their specific operation.
- 8. Establish a workgroup that will develop the guidelines and procedures recommended in items 5 – 8.

DRAFT April 16, 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 specifically 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 this creates 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 that what is currently in the 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 from the current CMS100 application. Any conviction inquiries should be made immediately prior to an offer of employment by a state agency.

This committee also urges the support of legislation that removes barriers to employment and protects civil rights for people with criminal records such as HB 3061 – Criminal Records Sealing and HB 2846 – Best Candidate for the Job.

HB 2846 is especially interesting in that it provides that there must be a substantial, rather than unreasonable, risk before adverse action regarding employment may be taken based upon an applicant's convictions. It further provides that consideration must be given to the bearing the conviction will have upon the fitness or ability to perform duties necessarily related to the license, job, or opportunity.