

**ILLINOIS DEPARTMENT OF VETERANS' AFFAIRS**

**CRIMINAL RECORDS-BASED  
RESTRICTIONS REPORT**

*In Accordance with 20 ILCS 5000/15(c)*

**DATE:** January 30, 2012

**TO:** Illinois Criminal Justice Information Authority ([CJA.EmplRestrictions@Illinois.gov](mailto:CJA.EmplRestrictions@Illinois.gov))

**FROM:** Illinois Department of Veterans' Affairs

**SUBJECT:** Criminal Records-Based Restrictions Report – Pursuant to 20 ILCS 5000/15(c)

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Pursuant to the Task Force on Inventorying Employment Restrictions Act (20 ILCS<sup>1</sup> 5000/15(c)), the Illinois Department of Veterans' Affairs has prepared the Criminal Records-Based Restrictions Report, which is defined in the Act as: *“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.”*

Section 15(c) of the Act has eight subsections specifying the reporting requirements regarding criminal records-based restriction. The eight subsections are referenced and addressed individually.

**(1) The job title, occupation, job classification, or restricted place of employment, including the range of occupations affected in such places. (20 ILCS 5000/15(c)(1))**

All Department full time, part-time, temporary, and emergency hires are subject to name-based criminal history background checks.

Direct-care workers are subject to more stringent checks. In addition to UCIA<sup>2</sup> fingerprint background checks, all direct care positions are subject to Illinois Department of Public Health (IDPH) Health Care Worker Registry checks which include registry checks with the Health and Human Services Office of Inspector General; Illinois Sex Offenders Registration; Illinois Department of Corrections Sex Registrant, Inmate Search, and Wanted Fugitives databases; and the National Sex Offender Public Registry.

In regards to applicants for non-direct-care positions, the Department considers an applicant's criminal history in the hiring process. However, the Department does not have a policy specifying any offense as disqualifying.

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<sup>1</sup> ILCS: Illinois Compiled Statutes ([www.ilga.gov](http://www.ilga.gov))

<sup>2</sup> UCIA: Uniform Conviction Information Act (20 ILCS 2635) – **See Attachment N.**

As of December 31, 2011, the Department employs approximately 1,241 individuals, including approximately 636 direct-care workers. The breakdown by location and unit is as follows:

	Direct-Care	Non-Direct-Care	Total
Central Office	0	44	<b>44</b>
Field Services	0	75	<b>75</b>
Anna Veterans' Home	36	33	<b>69</b>
LaSalle Veterans' Home	120	81	<b>201</b>
Manteno Veterans' Home	200	110	<b>310</b>
Manteno-Homeless Program	0	9	<b>9</b>
Quincy Veterans' Home	280	246	<b>526</b>
State Approving Agency	0	5	<b>5</b>
Troops to Teachers	0	2	<b>2</b>
<b>Department Total:</b>	<b>636</b>	<b>605</b>	<b>1,241</b>

The Department has 111 total occupation titles, with six of the titles being considered direct-care.

#### Direct Care Occupations

The following is a breakdown, by title and veterans home, of direct-care occupations subject to more stringent criminal records-based restrictions under the Health Care Workers Background Check Act<sup>3</sup> and the Health Care Workers Background Check Code<sup>4</sup>:

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

#### Non-Direct-Care Occupations

The following are non-direct-care occupations for which criminal history is not formally disqualifying, yet are subject to criminal background checks as a Department practice for consideration in the hiring process:

1. Account Clerk I
2. Account Technician I
3. Account Technician II
4. Accountant

<sup>3</sup> 225 ILCS 46 – **See Attachment A.**

<sup>4</sup> 77 Ill Adm. Code 955 Section 955.160 – **See Attachment B.**

5. Accountant Advanced
6. Accountant Supervisor
7. Activity Program Aide II
8. Activity Therapist
9. Administrative Assistant I
10. Administrative Assistant II
11. Apparel/Dry Goods Specialist III
12. Barber
13. Building/Grounds Lead I
14. Building/Grounds Maintenance Worker
15. Business Manager
16. Carpenter
17. Chaplain I
18. Chief Internal Auditor
19. Cook I
20. Cook II
21. Data Processing Operator
22. Dietary Manager I
23. Dietary Manager II
24. Dietitian
25. Electrician
26. Executive I
27. Executive II
28. Executive Secretary I
29. Executive Secretary II
30. Executive Secretary III
31. Health Information Administrator
32. Health Information Associate
33. Human Resources Assistant
34. Human Resources Associate
35. Human Resources Representative
36. Human Resources Specialist
37. Information Services Specialist I
38. Information Services Specialist II
39. Information Systems Analyst I
40. Information Systems Analyst II
41. Inhalation Therapist
42. Inhalation Therapy Supervisor
43. Laundry Manager I
44. Library Associate
45. Maintenance Equipment Operator
46. Maintenance Worker (Power Plant)
47. Medical Administrator I, Opt D
48. Office Administrator III
49. Office Administrator IV
50. Office Assistant
51. Office Associate
52. Office Clerk
53. Office Coordinator
54. Office Specialist
55. Painter

56. Pharmacist Lead Technician
57. Pharmacist Technician
58. Pharmacy Services Coordinator
59. Physical Therapy Aide II
60. Physical Therapy Aide III
61. Physician
62. Physician Specialist, Option A
63. Physician Specialist, Option B
64. Physician Specialist, Option B
65. Plumber
66. Property and Supply Clerk III
67. Public Safety Inspector
68. Public Service Administrator
69. Radiologic Technologist Program Coordinator
70. Registered Nurse - Advanced Practice
71. Rehab Counselor
72. Rehab Counselor Aide II
73. Reimbursement Officer
74. Reimbursement Officer I
75. Reimbursement Officer II
76. Reproduction Service Supervisor I
77. Reproduction Service Technician I
78. Security Officer
79. Security Officer Chief
80. Security Officer Sergeant
81. Senior Public Service Administrator
82. Social Service Aide I
83. Social Service Aide II
84. Social Service Program Planner I
85. Social Service Program Planner II
86. Social Service Program Planner III
87. Social Worker II
88. Social Worker III
89. Staff Pharmacist
90. Stationary Engineer
91. Stationary Engineer Assistant Chief
92. Stationary Engineer Chief
93. Stationary Fireman
94. Steamfitter
95. Storekeeper I
96. Storekeeper II
97. Storekeeper III
98. Stores Clerk
99. Support Service Coordinator I
100. Support Service Lead
101. Support Service Worker
102. Switchboard Operator I
103. Switchboard Operator II
104. Veterans Educational Specialist III
105. Veterans Service Officer

**(2) The statute, regulation, policy, and procedure that authorizes the restriction of applicants for employment and licensure, current employees, and current licenses. (20 ILCS 5000/15(c)(2))**

The restrictions are primarily authorized by the Health Care Workers Background Check Act (225 ILCS 46), an Illinois state law which prevents many health care employers from hiring an individual who has certain criminal convictions as a direct care worker and, in long-term care facilities, from being hired as a worker who has or may have access to residents, their living quarters or their financial, medical or personal records. Section 25 of the Act addresses persons ineligible to be hired by health care employers and long term facilities. **See Attachment A.**

Additionally, the Health Care Workers Background Check Code (77 Ill Adm. Code<sup>5</sup> 955 Section 955.160), addresses *Disqualifying Offenses*. **See Attachment B.**

Further, Section 1337 (Health Care Workers Background Check) of the Illinois Veterans' Homes Code (77 Ill Adm. Code 340.1377), specifically requires the Department's veterans' homes to "*comply with the Health Care Worker Background Check Act (225 ILCS 46) and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).*" **See Attachment C.**

The Department also utilizes a list of *Disqualifying Convictions* maintained and published online by the Illinois Department of Public Health (IDPH).<sup>6</sup> The offenses are listed in Section 3 of this report. **See Attachment D.**

The Department does not have an internal policy specifying any offense as disqualifying for non-direct-care positions. Criminal background checks are executed for all new hires, and the criminal history is considered in the hiring process.

**(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".**

**(20 ILCS 5000/15(c)(3))**

Direct-Care Occupations

In accordance with the Health Care Workers Background Check Code (77 Ill Adm. Code 955.160), the following offenses are disqualifying under both the Code and the Health Care Workers Background Check Act (as of January 31, 2012):

- a) Violations under the Criminal Code of 1961 (720 ILCS 5):
  - 1) Solicitation of murder, solicitation of murder for hire;

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<sup>5</sup> Ill Adm. Code: Illinois Administrative Code ([www.ilga.gov](http://www.ilga.gov))

<sup>6</sup> [www.idph.state.il.us/nar/disconvictions.htm](http://www.idph.state.il.us/nar/disconvictions.htm)

- 2) First degree murder, intentional homicide of an unborn child, second degree murder, voluntary manslaughter of an unborn child, involuntary manslaughter and reckless homicide, concealment of homicidal death, involuntary manslaughter and reckless homicide of an unborn child, and drug-induced homicide;
- 3) Kidnapping, aggravated kidnapping, child abduction, and aiding and abetting child abduction;
- 4) Unlawful restraint, aggravated unlawful restraint, and forcible detention;
- 5) Indecent solicitation of a child, sexual exploitation of a child, sexual misconduct with a person with a disability, exploitation of a child, and child pornography;
- 6) Assault; aggravated assault; battery; battery of an unborn child; domestic battery; aggravated domestic battery; aggravated battery; heinous battery; aggravated battery with a firearm; aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm; aggravated battery of a child; aggravated battery of an unborn child; aggravated battery of a senior citizen; or drug-induced infliction of great bodily harm;
- 7) Tampering with food, drugs, or cosmetics;
- 8) Aggravated stalking;
- 9) Home invasion;
- 10) Criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse;
- 11) Abuse and criminal neglect of a long-term care facility resident;
- 12) Criminal abuse or neglect of an elderly person or person with a disability;
- 13) Endangering the life or health of a child;
- 14) Ritual mutilation, ritualized abuse of a child;
- 15) Theft; theft of lost or mislaid property; retail theft; identity theft; aggravated identity theft;
- 16) Financial exploitation of an elderly person or a person with a disability;
- 17) Forgery;
- 18) Robbery, armed robbery, aggravated robbery;
- 19) Vehicular hijacking, aggravated vehicular hijacking;
- 20) Burglary, residential burglary;
- 21) Arson, aggravated arson, residential arson;
- 22) Unlawful use of weapons, unlawful use or possession of weapons by felons or persons in the custody of Department of Corrections facilities; aggravated discharge of a firearm; aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm; reckless discharge of a firearm; aggravated unlawful use of a weapon; unlawful discharge of firearm projectiles; unlawful sale or delivery of firearms on the premises of any school;
- 23) Armed violence.

b) Violations under the Wrongs to Children Act (720 ILCS 150):

- 1) Endangering life or health of a child;
- 2) Permitting sexual abuse of a child.

c) Violations under the Illinois Credit Card and Debit Card Act (720 ILCS 250):

- 1) Receiving a stolen credit or debit card;
- 2) Receiving a lost or mislaid card with intent to use, sell, or transfer;
- 3) Selling a credit card or debit card, without the consent of the issuer;
- 4) Using a credit or debit card with the intent to defraud;
- 5) Fraudulent use of electronic transmission.

- d) Violation under the Criminal Jurisprudence Act: Cruelty to children. (720 ILCS 115) (Repealed by P.A.<sup>7</sup> 88-479; 89-234)
- e) Violations under the Cannabis Control Act: Manufacture, delivery, or possession with intent to deliver or manufacture cannabis; cannabis trafficking; delivery of cannabis on school grounds; delivering cannabis to a person under 18; calculated criminal cannabis conspiracy. (720 ILCS 550)
- f) Violations under the Illinois Controlled Substances Act (720 ILCS 570): manufacture or delivery, or possession with intent to manufacture or deliver, a controlled substance other than methamphetamine, a counterfeit substance, or a controlled substance analog; controlled substance trafficking; manufacture, distribution, advertisement, or possession with intent to manufacture or distribute a look-alike substance; calculated criminal drug conspiracy; criminal drug conspiracy; delivering a controlled, counterfeit or look-alike substance to a person under 18; and engaging or employing a person under 18 to deliver a controlled, counterfeit or look-alike substance.
- g) Violation under the Nurse Practice Act: practice of nursing without a license. (225 ILCS 65)
- h) Violations under the Methamphetamine Control and Community Protection Act. (720 ILCS 646)

The Department also utilizes a list of *Disqualifying Convictions* published by the Illinois Department of Public Health (IDPH). As of January 31, 2012, the disqualifying convictions include:

- 1) Disqualifying Offenses that May Be Considered for a Waiver by the Submission of a Waiver Application:
  - Unlawful Restraint;
  - Aggravated Unlawful Restraint;
  - Forcible Detention;
  - Child Abduction;
  - Aiding and Abetting Child Abduction;
  - Assault;
  - Aggravated Assault;
  - Battery;
  - Battery of an Unborn Child;
  - Domestic Battery;
  - Tampering with Food, Drugs or Cosmetics;
  - Aggravated Stalking;
  - Home Invasion;
  - Endangering the Life or Health of a Child;
  - Ritual Mutilation;
  - Ritual Abuse of a Child;
  - Theft;
  - Theft of Lost or Mislaid Property;
  - Retail Theft;
  - Identity Theft;
  - Aggravated Identity Theft;
  - Forgery Robbery;

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<sup>7</sup> P.A.: Public Act ([www.ilga.gov](http://www.ilga.gov))

- Vehicular Hijacking Burglary;
- Residential Burglary;
- Criminal Trespass to Residence;
- Arson;
- Aggravated Arson;
- Residential Arson;
- Unlawful Use of a Weapon;
- Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities;
- Aggravated Discharge of a Firearm;
- Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm;
- Reckless Discharge of a Firearm;
- Aggravated Unlawful Use of a Weapon;
- Unlawful Discharge of Firearm Projectiles;
- Unlawful Sale or Delivery of Firearms on the Premises of Any School;
- Armed Violence;
- Practice of Nursing without a License;
- Endangering Life or Health of a Child;
- Permitting Sexual Abuse of a Child;
- Cruelty to Children;
- Receiving Stolen Credit Card or Debit Card;
- Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer;
- Selling a Credit Card or Debit Card, without the Consent of the Issuer;
- Using a Credit or Debit Card with the Intent to Defraud;
- Fraudulent Use of Electronic Transmission;
- Manufacture, Delivery, or Possession with Intent to Deliver, or Manufacture, Cannabis;
- Cannabis Trafficking;
- Delivery of Cannabis on School Grounds;
- Delivering Cannabis to a Person under 18;
- Calculated Criminal Cannabis Conspiracy;
- Manufacture or Delivery, or Possession with Intent to Manufacture or Deliver, a Controlled Substance Other than Methamphetamine, a Counterfeit Substance, or a Controlled Substance Analog;
- Controlled Substance Trafficking;
- Distribution, Advertisement, or Possession with Intent to Manufacture or Distribute a Look-alike Substance;
- Calculated Criminal Drug Conspiracy;
- Criminal Drug Conspiracy;
- Delivering a Controlled, Counterfeit or Look-alike Substance to a Person under 18;
- Engaging or Employing Person under 18 to Deliver a Controlled, Counterfeit or Look-alike Substance;
- Violations under the Methamphetamine Control and Community Protection Act.

2) Disqualifying Offenses that May Be Considered for a Rehabilitation Waiver:

- Theft (as a misdemeanor);
- Theft of Lost or Mislaid Property;
- Retail Theft (as a misdemeanor);
- Criminal Trespass to Residence;
- Reckless Discharge of a Firearm;



- Practice of Nursing without a License;
- Cruelty to Children;
- Receiving Stolen Credit Card or Debit Card;
- Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer;
- Selling a Credit Card or Debit Card, without the Consent of the Issuer;
- Using a Credit or Debit Card with the Intent to Defraud;
- Fraudulent Use of Electronic Transmission.

3) Offenses that Are Always Disqualifying Except Through the Appeal Process:

- Solicitation of Murder;
- Solicitation of Murder for Hire;
- First Degree Murder;
- Intentional Homicide of an Unborn Child;
- Second Degree Murder;
- Voluntary Manslaughter of an Unborn Child;
- Involuntary Manslaughter and Reckless Homicide;
- Concealment of Homicidal Death;
- Involuntary Manslaughter and Reckless Homicide of an Unborn Child;
- Drug Induced Homicide;
- Kidnapping;
- Aggravated Kidnapping;
- Indecent Solicitation of a Child;
- Sexual Exploitation of a Child;
- Sexual Misconduct with a Person with a Disability;
- Exploitation of a Child;
- Child Pornography;
- Aggravated Domestic Battery;
- Aggravated Battery;
- Heinous Battery;
- Aggravated Battery with a Firearm;
- Aggravated Battery with a Machine Gun or a Firearm Equipped with Any Device or Attachment Designed or Used for Silencing the Report of a Firearm;
- Aggravated Battery of a Child;
- Aggravated Battery of an Unborn Child;
- Aggravated Battery of a Senior Citizen;
- Drug Induced Infliction of Great Bodily Harm;
- Criminal Sexual Assault;
- Aggravated Criminal Sexual Assault;
- Predatory Criminal Sexual Assault of a Child;
- Criminal Sexual Abuse;
- Aggravated Criminal Sexual Abuse;
- Abuse and Criminal Neglect of a LTC Facility Resident;
- Criminal Abuse or Neglect of an Elderly Person or Person with a Disability;
- Financial Exploitation of an Elderly Person or a Person with a Disability;
- Armed Robbery;
- Aggravated Vehicular Hijacking;
- Aggravated Robbery.

### Non-Direct-Care Occupations

All non-direct-care occupations are subject to name-based UCIA criminal background checks that are executed by the Illinois State Police. The Department has no positions exempt from criminal background checks. The process is described in the Instructions for Submitting Conviction Inquiries. **See Attachment E.**

A Live Scan Fingerprint Vendor Application is also available should a name-based ISP criminal background check not come back clear (this form has only been used once in the past two years for non-direct-care staff). **See Attachment F.**

**(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. (20 ILCS 5000/15(c)(4))**

### Direct-Care Occupations

An IDPH Health Care Worker Background Check - Authorization and Disclosure for Criminal History Records Information (CHRI) Check form is completed by the applicant. After a selected candidate is identified through the interview and selection process, the applicants information is submitted to the Illinois Department of Public Health (IDPH) through its *Health Care Worker Background Check Registry's Web Application*, for a finger-print based criminal background check, in addition to registry checks identified in section 15 C (1), in accordance with Section 33 of the Health Care Workers Background Check Act (225 ILCS 46/33). **See Attachments K and M.**

### Non-Direct-Care Occupations

A Request for Release Of Information Form is completed by applicants authorizing the Illinois State Police to release criminal history information relative to the existence or nonexistence of any criminal record on file. After candidate is identified through the interview and selection process, the candidate's information is submitted to the Illinois State Police for a name-based criminal history background check. The Department utilizes an electronic file transfer program that sends background check requests to Illinois State Police via encrypted email. Encrypted background check results are returned to the agency in the same manner. **See Attachments L and G.**

**(5) The procedures used by the agency to determine and review whether an individual's criminal history disqualifies that individual. (20 ILCS 5000/15(c)(5))**

All applicants are required to disclose on the on the CMS-100 Application<sup>8</sup> if they have ever pled guilty to or been convicted of any criminal offense other than a minor traffic violation. **See Attachment H.**

### Direct-Care Occupations

For direct-care occupations, the applicants information is submitted to the Illinois Department of Public Health (IDPH) through its *Health Care Worker Background Check Registry's Web Application*, for a finger-print based criminal background check in accordance with Section 33 of the Health Care Workers Background Check Act (225 ILCS 46/33). IDPH executes the criminal background check and makes the determination if the individual is disqualified.

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<sup>8</sup> CMS: Illinois Department of Central Management Services

### Non-Direct-Care Occupations

All non-direct-care occupations are subject to criminal background checks that are executed by the Illinois State Police (ISP). The request for a background check is submitted to ISP by the Department's Human Resources staff through a computer application. The Department refers to the listing of *Disqualifying Convictions* maintained by the Illinois Department of Public Health; however, it has discretion in applying criminal background to non-direct care hiring decisions. **See Attachment D.**

#### **(6) The year the restriction was adopted, and its rationale. (20 ILCS 5000/15(c)(6))**

The Illinois Veterans' Homes Code (77 Ill. Adm. Code 340.1377) was last amended on August 2, 2005 and required the Department's veterans' home facilities to comply with the Health Care Worker Background Check Act (225 ILCS 46) and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

The fingerprint based criminal history checks are defined in Section 33 of the Health Care Worker Background Check Act (225 ILCS 46/33), which was effective August 13, 2007.

The disqualifying offenses as defined in Part 160 of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.160) were adopted on August 29, 2009.

The rationale for the adoption of the criminal record-based restrictions was to comply with applicable laws and administrative rules, and to promote the safety and security – physical, medical, financial, or otherwise – of veterans, veterans' home residents, Department staff, and citizens in general.

#### **(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. (20 ILCS 5000/15(c)(7))**

The Department does not directly grant waivers for disqualifying offenses. A Waiver Application Form is available from the Illinois Department of Public Health (IDPH) which the disqualified individual may complete and submitted to IDPH. **See Attachment I.**

A fact sheet regarding the waiver application is also available. **See Attachment J.**

**(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 waiver, exemption and appeals procedures for denial, suspensions and terminations of employment or licensure based on criminal history.**

**(20 ILCS 5000/15(c)(8))**

The applicable statutes and rules include:

- The Health Care Workers Background Check Act (225 ILCS 46), Section 25: Persons ineligible to be hired by health care employers and long term facilities;
- The Health Care Workers Background Check Code (77 Ill Adm. Code 955 Section 955), Section 160: Disqualifying Offenses; and,
- The Illinois Veterans' Homes Code (77 Ill Adm. Code 340), Section 1337: Health Care Workers Background Check.

For direct-care occupations, an IDPH Health Care Worker Background Check - Authorization and Disclosure for Criminal History Records Information (CHRI) Check form is completed by the applicant. The *Health Care Worker Background Check Registry's Web Application* is used to submit information from the form to the Illinois Department of Public Health (IDPH) for a finger-print based criminal background check in accordance with Section 33 of the Health Care Workers Background Check Act (225 ILCS 46). IDPH executes the criminal background check and makes the determination if the individual is disqualified. Waiver applications are handled by IDPH. **See Attachment K.**

For non-direct-care occupations, a Request for Release of Information Form is completed by the applicant authorizing the Illinois State Police to release criminal history information relative to the existence or nonexistence of any criminal record on file solely to determine an applicant's suitability for employment or continued employment with the State of Illinois. Applicants may view the results of their background check upon request. **See Attachment L.**

## **CONCLUSION**

Please direct any questions to Edie Long, Assistant to the Director, at [Edie.Long@illinois.gov](mailto:Edie.Long@illinois.gov). Ms. Long will ensure questions are routed to the appropriate respondent.

**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](mailto: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)

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Pursuant to the Task Force on Inventorying Employment Restrictions Act (20 ILCS<sup>1</sup> 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. Code<sup>2</sup> 955). **See Attachments A and B.**

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<sup>1</sup> ILCS: Illinois Compiled Statutes ([www.ilga.gov](http://www.ilga.gov))

<sup>2</sup> Ill Adm. Code: Illinois Administrative Code ([www.ilga.gov](http://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	<b>44</b>
Field Services	0	75	<b>75</b>
Anna Veterans' Home	36	33	<b>69</b>
LaSalle Veterans' Home	120	81	<b>201</b>
Manteno Veterans' Home	200	110	<b>310</b>
Manteno-Homeless Program	0	9	<b>9</b>
Quincy Veterans' Home	280	246	<b>526</b>
State Approving Agency	0	5	<b>5</b>
Troops to Teachers	0	2	<b>2</b>
<b>Department Total:</b>	<b>636</b>	<b>605</b>	<b>1241</b>

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	<b>8</b>
Licensed Practical Nurse II	5	8	26	48	<b>87</b>
Physical Therapy Aide II - Direct Care	0	0	0	4	<b>4</b>
Registered Nurse I	0	6	5	10	<b>21</b>
Registered Nurse II	7	27	44	45	<b>123</b>
Veterans Nursing Assistant - Certified	24	78	123	168	<b>393</b>
	<b>36</b>	<b>120</b>	<b>200</b>	<b>280</b>	<b>636</b>

**(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
<b>Total:</b>	<b>3</b>	<b>54</b>	<b>63</b>	<b>70</b>	<b>190</b>

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 Application<sup>3</sup>. 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

<sup>3</sup> 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](mailto:Edie.Long@illinois.gov). Ms. Long will ensure questions are routed to the appropriate respondent.