

DEPARTMENT OF CORRECTIONS

Public Safety/Executive Agency

FY14 Headcount: 11,007

<http://www2.illinois.gov/idoc/Pages/default.aspx>

Summary of Agency Operations

The Department of Corrections (DOC) operates secure correctional facilities, reduces costs by introducing alternatives to incarceration and ensures all incarcerated individuals receive mandated services. DOC promotes public safety in Illinois by implementing strategies that strive for maximum efficiency, programs that reduce recidivism and safe facilities that protect both inmates and workers.

Internal Hiring

Agency positions subject to restrictions based on criminal history

All employees, contractors, and volunteers (excluding outside workers who do not work with offender or offender records such as delivery persons, garbage collectors and who are escorted at all times) who serve the Department are subject to criminal record-based restrictions in accordance with **Administrative Directive 01.02.107 paragraph I.B.**

Agency policy applicable to restrictions on internal hiring:

Administrative Directive 01.02.107, Background Investigation, authorizes the Department to conduct background investigations and restrict eligibility to serve the Department. "The Department shall conduct background investigations on persons prior to employment or prior to placement in safety sensitive positions and on person who provide services for the Department..."

The Department requires the possession of weapons and ammunition for positions such as parole agent and security staff. In accordance with 430 ILCS 65 applicants who are prohibited from possessing a firearm or ammunition are not eligible to serve the Department for the above position unless relief is granted in accordance with 430 ILCS 65.

Firearms Owners Identification Card Act Sec. 4. [430 ILCS 65/4] (a) Each applicant for a Firearm Owner's Identification Card must: (2) Submit evidence to the Department of State Police that: (ii) He or she has not been **convicted of a felony** under the laws of this or any other jurisdiction; (iii) He or she is not addicted to narcotics; (iv) He or she has not been a patient in a mental institution within the past 5 years and he or **she has not been adjudicated as a mental defective**; (vi) He or she is not an alien who is unlawfully present in the United States under the laws of the United States; (vii) He or she is not **subject to an existing order of protection prohibiting him or her from possessing a firearm**; (viii) He or she has not been **convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed**; (ix) He or she has not been **convicted of domestic battery, aggravated**

Department of Corrections

domestic battery, or a substantially similar offense in another jurisdiction committed before, on or after January 1, 2012 (the effective date of Public Act 97-158). If the applicant knowingly and intelligently waives the right to have an offense described in this clause (ix) tried by a jury, and by guilty plea or otherwise, results in a conviction for an offense in which a domestic relationship is not a required element of the offense but in which a determination of the applicability of 18 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the Code of Criminal Procedure of 1963, an entry by the court of a judgment of conviction for that offense shall be grounds for denying the issuance of a Firearm Owner's Identification Card under this Section; (xiii) He or she is not **an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony.**

Restriction Type: Mandatory

Restriction Duration: No time limit specified, except for conviction of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed, within previous 5 years.

System of personnel administration

Personnel Code [20 ILCS 415]

Title 80, Ill Admin Code, Section 302.130 Removal of names from eligible list

See Chapter IV of the Final Report for the enumerated criminal history restrictions in the Personnel Code, administered by CMS Bureau of Personnel, related to being qualified for open competitive examinations and subsequent appointment.

Background Check Procedures:

730 ILCS 175/45-25 (Criminal Background Investigations)

The Department **shall require** that each employee of a facility as a condition of employment, authorize an investigation to determine if the applicant or employee has ever been charged with a crime and, if so, the disposition of those charges. The authorization shall indicate the scope of the inquiry and the agencies that may be contacted. Upon receiving an authorization, the Director may request and receive information and assistance from any federal, State, or local governmental agency as part of the authorized investigation. The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant or facility employee upon request of the Department when the request is made in the form and manner required by the Department of State Police.

(1) Self-disclosure on application

Administrative Directive 01.07.102, Background investigations, Paragraph II.G. is used by the Department to identify the applicant and requires completed applications CMS 100, DOC 005, or DOC 0031; applicant information sheet either the DOC 0031 or DOC 005, or DOC 0031; applicant information sheet either the DOCT 0031 or DOC 0267; release and consent form DOC 0035 or DOC 0108; Employment Reference Check, DOC 0037, for employee or contractual applicants; military information for employee and contractual applicants; and fingerprint cards. The Department then uses the information obtained in the above documentation to conduct the above inquiries.

Department of Corrections

(2) How criminal history information is obtained

Administrative Directive 03.02.100, Administrative Review of Personnel or Services Issues, Paragraph II.G. is used to determine and review an applicant's history disqualifies them for service. The Department of Corrections conducts two types of background investigations:

- a) A "computer criminal history check or name check" is a review of all the applicant's criminal history through the Law Enforcement Agencies Data System (LEADS) and is conducted on all applicants
- b) A "complete background investigations" includes the above inquiry and review of the applicant's driver's license, Firearms Owner's Identification (FOID), employment reference checks, offender, juvenile, and visitor tracking systems within the Department, Military Checks (if applicable). The complete background investigation is conducted on all state employee applicants, employees, contractual employees, student workers, interns, volunteers who regularly work with offenders and consultants who work with offenders.

3) In-house review procedure:

Administrative Directive 03.03.100, Administrative Review of Personnel or Service Issues:

Paragraph II.F.5: "an applicant shall not be disqualified on the basis of an arrest record alone..."

Paragraph II.F.6: "in determining whether an applicant's criminal history demonstrates unsuitability for employment or service, the following factors shall be considered:

- a. The nature and seriousness of the offense(s) or conduct;
- b. The time that has passes since the offense(s) or conduct;
- c. The frequency and pattern of the offense(s) or conduct; and
- d. The nature of the prospective job

"1. No commitment to any course of action shall be made without the Director's prior approval when hiring new employees or approving volunteers where factors exist which could give rise to a possible conflict of interest or which demonstrate unsuitability for employment or service, including but not limited to:

- a. The applicant has known relatives or close associates who are currently employed by the Department;
- b. The applicant has been convicted for anything other than a minor traffic violation
- c. The applicant has known relatives or close associates who are presently incarcerated within the Department or who are currently on parole or mandatory supervised release;
- d. The applicant is a former employee of the Department;
- e. The Applicant provided false or misleading information; or
- f. Documentation reveals negative factors which may make the applicant unsuitable for employment or service within the Department, such as discipline or discharge from previous employment."

Department of Corrections

Exemption, waiver, or review mechanisms

Administrative Directive 03.02.100, Administrative Review of Personnel and Service Issues, Paragraph II.F.5.c: “the applicant must be permitted an opportunity to explain the circumstances of the alleged conduct.” The denial letter states, “You may appeal this decision by submitting your explanation and request for reconsideration in writing to the Background Investigations Unit at the above address, or by fax to 217-522-4366.”

Total number of people who underwent a background check

Not reported to the Task Force

Occupational Licensing, Certification, Regulation

Occupational licenses issued by agency that are subject to criminal history restrictions

Transitional Housing for sex offenders on parole, probation or supervision license applicant

Statutory/regulatory restrictions applicable to occupational licensing

Administrative Code, Title 20, Chapter I, Subchapter h, Part 800.100 a No Transitional Housing applicant may receive a license from the Department, and no person may be employed by a licensed Transitional Housing facility, unless he or she provides written authorization for a background check that may include, but is not limited to: 1) A check of the criminal justice information systems, including, but not limited to, those maintained by the Illinois Department of State Police, the Federal Bureau of Investigation, and the United States Department of Justice, **to determine whether the person has been charged with a crime, and if so, the disposition of the charges;** 3) A declaration under penalty of perjury regarding **any prior criminal convictions** other than a minor traffic violation.

Restriction Type: Mandatory

Restriction Duration: No time limit specified

730 ILCS 175/45-30 (License Eligibility)

Administrative Code: Title 20, Chapter I, Subchapter h, Part 801, Sub part A, Section 801.100. Criminal Convictions and Pending Criminal Charges

b. No applicant may receive a license from the Department [and no person may be employed by a secure residential youth care facility licensed by the Department] who has been declared a sexually dangerous person under the Sexually Dangerous Persons Act or convicted of committing or attempting to commit any of the following offenses under the Criminal Code of 1961 or the Criminal Code of 2012: **first degree murder; indecent solicitation of a child; indecent solicitation of an adult; public indecency; sexual exploitation of a child; sexual relations within families; prostitution; solicitation of a sexual act; soliciting for a prostitute; soliciting for a juvenile prostitute; pandering; keeping a place of prostitution; keeping a place of juvenile prostitution; patronizing a juvenile prostitute; pimping; juvenile pimping; exploitation of a child; obscenity; child pornography; kidnapping; aggravated kidnapping; child abduction; aggravated battery of a child; criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse; and an offense in any federal or state jurisdiction for which the elements are similar to any of the foregoing offenses.**

Department of Corrections

Restriction Type: Mandatory

Restriction Duration: No time limit specified

730 ILCS 175/45-25 (Criminal Background Investigations for applicants)

Information concerning convictions of a license applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon written request, to the applicant before final action by the Department on the application. Information on convictions of employees or prospective employees of facilities licensed under this Act shall be provided to the operator of the facility, and, upon written request, to the employee or prospective employee. Information concerning criminal charges and the disposition of charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required by this Section, and may not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or a facility employee. Only information and standards that bear a reasonable and rational relation to the performance of a facility shall be used by the Department or any licensee. Any employee of the Department, Department of State Police, or a facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions of a facility applicant or facility employee is guilty of a Class A misdemeanor unless release of that information is authorized by this Section.

Administrative Code: Title 20, Chapter I, Subchapter h, Part 801, Sub part A, Section 801.100. Criminal Convictions and Pending Criminal Charges

a. In assessing the suitability of a license applicant or an employee of a licensed facility, the Department may consider prior criminal charges and their disposition, criminal charges pending at the time of the application, and criminal charges filed during review of the application.

c. Except as described in subsection (b) of this Section [**enumerated offenses listed above**], **an individual convicted of a crime will not automatically be prohibited from licensure** (or employment in a licensed secure residential youth care facility). Instead, the following shall be considered:

- 1) The nature of the crime for which the individual was convicted;
- 2) The circumstances surrounding the commission of the crime, including the age of the individual, that would demonstrate a low likelihood of repetition;
- 3) The period of time that has elapsed since the crime was committed and the number of crimes for which the individual was convicted;
- 4) Evidence of rehabilitation such as successful participation in therapy since conviction;
- 5) A full and unconditional pardon granted by the Governor or the judicial reversal of the conviction upon appeal;
- 6) Character references;

Restriction Type: Discretionary

Restriction Duration: No time limit specified

Employment Contracting

Illinois Procurement Code (30 ILCS 500/)

30 ILCS 500/50-2 (Continuing disclosure; false certification)

Department of Corrections

- 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

The DOC conducts Law Enforcement Agencies Data System (LEADS) checks on all applicants, and a more comprehensive check on all state employee applicants, employees, contractual employees, student workers, interns, volunteers who regularly work with offenders and consultants who work with offenders.

Applicants are not disqualified based on an arrest record alone, rather the DOC considers the nature and seriousness of the offence, the time passed since the offence, the frequency and pattern of the offense, and the nature of the prospective job to determine whether an applicant is or is not disqualified (Administrative Directive 03.02.100 Par. II.F.5 and 6).

Applicants with prior criminal history are permitted an opportunity to explain the circumstances of the alleged conduct (Administrative Directive 03.02.100 Par. II. F.5.c).