

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Professional Regulation Law of
5 the Civil Administrative Code of Illinois is amended by
6 changing Sections 2105-130, 2105-135, 2105-205, and 2105-207
7 and by adding Section 2105-131 as follows:

8 (20 ILCS 2105/2105-130)

9 Sec. 2105-130. Determination of disciplinary sanctions.

10 (a) Following disciplinary proceedings as authorized in
11 any licensing Act administered by the Department, upon a
12 finding by the Department that a person has committed a
13 violation of the licensing Act with regard to licenses,
14 certificates, or authorities of persons exercising the
15 respective professions, trades, or occupations, the Department
16 may revoke, suspend, refuse to renew, place on probationary
17 status, fine, or take any other disciplinary action as
18 authorized in the licensing Act with regard to those licenses,
19 certificates, or authorities. When making a determination of
20 the appropriate disciplinary sanction to be imposed, the
21 Department shall consider only evidence contained in the
22 record. The Department shall consider any aggravating or
23 mitigating factors contained in the record when determining the

1 appropriate disciplinary sanction to be imposed.

2 (b) When making a determination of the appropriate
3 disciplinary sanction to be imposed on a licensee, the
4 Department shall consider, but is not limited to, the following
5 aggravating factors contained in the record:

6 (1) the seriousness of the offenses;

7 (2) the presence of multiple offenses;

8 (3) prior disciplinary history, including actions
9 taken by other agencies in this State, by other states or
10 jurisdictions, hospitals, health care facilities,
11 residency programs, employers, or professional liability
12 insurance companies or by any of the armed forces of the
13 United States or any state;

14 (4) the impact of the offenses on any injured party;

15 (5) the vulnerability of any injured party, including,
16 but not limited to, consideration of the injured party's
17 age, disability, or mental illness;

18 (6) the motive for the offenses;

19 (7) the lack of contrition for the offenses;

20 (8) financial gain as a result of committing the
21 offenses; and

22 (9) the lack of cooperation with the Department or
23 other investigative authorities.

24 (c) When making a determination of the appropriate
25 disciplinary sanction to be imposed on a licensee, the
26 Department shall consider, but is not limited to, the following

1 mitigating factors contained in the record:

2 (1) the lack of prior disciplinary action by the
3 Department or by other agencies in this State, by other
4 states or jurisdictions, hospitals, health care
5 facilities, residency programs, employers, insurance
6 providers, or by any of the armed forces of the United
7 States or any state;

8 (2) contrition for the offenses;

9 (3) cooperation with the Department or other
10 investigative authorities;

11 (4) restitution to injured parties;

12 (5) whether the misconduct was self-reported; and

13 (6) any voluntary remedial actions taken.

14 (Source: P.A. 98-1047, eff. 1-1-15.)

15 (20 ILCS 2105/2105-131 new)

16 Sec. 2105-131. Applicants with criminal convictions;
17 notice of denial.

18 (a) Except as provided in Section 2105-165 of this Act
19 regarding licensing restrictions based on enumerated offenses
20 for health care workers as defined in the Health Care Worker
21 Self-Referral Act and except as provided in any licensing Act
22 administered by the Department in which convictions of certain
23 enumerated offenses are a bar to licensure, the Department,
24 upon a finding that an applicant for a license, certificate, or
25 registration was previously convicted of a felony or

1 misdemeanor that may be grounds for refusing to issue a license
2 or certificate or granting registration, shall consider any
3 mitigating factors and evidence of rehabilitation contained in
4 the applicant's record, including any of the following, to
5 determine whether a prior conviction will impair the ability of
6 the applicant to engage in the practice for which a license,
7 certificate, or registration is sought:

8 (1) the lack of direct relation of the offense for
9 which the applicant was previously convicted to the duties,
10 functions, and responsibilities of the position for which a
11 license is sought;

12 (2) unless otherwise specified, whether 5 years since a
13 felony conviction or 3 years since release from confinement
14 for the conviction, whichever is later, have passed without
15 a subsequent conviction;

16 (3) if the applicant was previously licensed or
17 employed in this State or other states or jurisdictions,
18 the lack of prior misconduct arising from or related to the
19 licensed position or position of employment;

20 (4) the age of the person at the time of the criminal
21 offense;

22 (5) successful completion of sentence and, for
23 applicants serving a term of parole or probation, a
24 progress report provided by the applicant's probation or
25 parole officer that documents the applicant's compliance
26 with conditions of supervision;

1 (6) evidence of the applicant's present fitness and
2 professional character;

3 (7) evidence of rehabilitation or rehabilitative
4 effort during or after incarceration, or during or after a
5 term of supervision, including, but not limited to, a
6 certificate of good conduct under Section 5-5.5-25 of the
7 Unified Code of Corrections or certificate of relief from
8 disabilities under Section 5-5.5-10 of the Unified Code of
9 Corrections; and

10 (8) any other mitigating factors that contribute to the
11 person's potential and current ability to perform the job
12 duties.

13 (b) If the Department refuses to issue a license or
14 certificate or grant registration to an applicant based upon a
15 conviction or convictions, in whole or in part, the Department
16 shall notify the applicant of the denial in writing with the
17 following included in the notice of denial:

18 (1) a statement about the decision to refuse to grant a
19 license, certificate, or registration;

20 (2) a list of convictions that the Department
21 determined will impair the applicant's ability to engage in
22 the position for which a license, registration, or
23 certificate is sought;

24 (3) a list of convictions that formed the sole or
25 partial basis for the refusal to issue a license or
26 certificate or grant registration; and

1 (4) a summary of the appeal process or the earliest the
2 applicant may reapply for a license, certificate, or
3 registration, whichever is applicable.

4 (20 ILCS 2105/2105-135)

5 Sec. 2105-135. Qualification for licensure or
6 registration; good moral character; applicant conviction
7 records.

8 (a) The practice of professions licensed or registered by
9 the Department is hereby declared to affect the public health,
10 safety, and welfare and to be subject to regulation and control
11 in the public interest. It is further declared to be a matter
12 of public interest and concern that persons who are licensed or
13 registered to engage in any of the professions licensed or
14 registered by the Department are of good moral character, which
15 shall be a continuing requirement of licensure or registration
16 so as to merit and receive the confidence and trust of the
17 public. Upon a finding by the Department that a person has
18 committed a violation of the disciplinary grounds of any
19 licensing Act administered by the Department with regard to
20 licenses, certificates, or authorities of persons exercising
21 the respective professions, trades, or occupations, the
22 Department is authorized to revoke, suspend, refuse to renew,
23 place on probationary status, fine, or take any other
24 disciplinary action it deems warranted against any licensee or
25 registrant whose conduct violates the continuing requirement

1 of good moral character.

2 (b) No application for licensure or registration shall be
3 denied by reason of a finding of lack of good moral character
4 when the finding is based solely upon the fact that the
5 applicant has previously been convicted of one or more criminal
6 offenses. When reviewing a prior conviction of an initial
7 applicant for the purpose of determining good moral character,
8 the Department shall consider evidence of rehabilitation and
9 mitigating factors in the applicant's record, including those
10 set forth in subsection (a) of Section 2105-131 of this Act.

11 (c) The Department shall not require applicants to report
12 the following information and shall not consider the following
13 criminal history records in connection with an application for
14 licensure or registration:

15 (1) juvenile adjudications of delinquent minors as
16 defined in Section 5-105 of the Juvenile Court Act of 1987
17 subject to the restrictions set forth in Section 5-130 of
18 that Act;

19 (2) law enforcement records, court records, and
20 conviction records of an individual who was 17 years old at
21 the time of the offense and before January 1, 2014, unless
22 the nature of the offense required the individual to be
23 tried as an adult;

24 (3) records of arrest not followed by a charge or
25 conviction;

26 (4) records of arrest where the charges were dismissed

1 unless related to the practice of the profession; however,
2 applicants shall not be asked to report any arrests, and an
3 arrest not followed by a conviction shall not be the basis
4 of a denial and may be used only to assess an applicant's
5 rehabilitation;

6 (5) convictions overturned by a higher court; or

7 (6) convictions or arrests that have been sealed or
8 expunged.

9 (Source: P.A. 98-1047, eff. 1-1-15.)

10 (20 ILCS 2105/2105-205) (was 20 ILCS 2105/60.3)

11 Sec. 2105-205. Publication of disciplinary actions; annual
12 report.

13 (a) The Department shall publish on its website, at least
14 monthly, final disciplinary actions taken by the Department
15 against a licensee or applicant pursuant to any licensing Act
16 administered by the Department. The specific disciplinary
17 action and the name of the applicant or licensee shall be
18 listed.

19 (b) No later than May 1 of each year, the Department must
20 prepare, publicly announce, and publish a report of summary
21 statistical information relating to new license,
22 certification, or registration applications during the
23 preceding calendar year. Each report shall show at minimum:

24 (1) the number of applicants for each new license,
25 certificate, or registration administered by the

1 Department in the previous calendar year;

2 (2) the number of applicants for a new license,
3 certificate, or registration within the previous calendar
4 year who had any criminal conviction;

5 (3) the number of applicants for a new license,
6 certificate, or registration in the previous calendar year
7 who were granted a license, registration, or certificate;

8 (4) the number of applicants for a new license,
9 certificate, or registration within the previous calendar
10 year with a criminal conviction who were granted a license,
11 certificate, or registration in the previous calendar
12 year;

13 (5) the number of applicants for a new license,
14 certificate, or registration in the previous calendar year
15 who were denied a license, registration, or certificate;

16 (6) the number of applicants for new license,
17 certificate, or registration in the previous calendar year
18 with a criminal conviction who were denied a license,
19 certificate, or registration in part or in whole because of
20 such conviction;

21 (7) the number of licenses issued on probation within
22 the previous calendar year to applicants with a criminal
23 conviction; and

24 (8) the number of licensees or certificate holders who
25 were granted expungement for a record of discipline based
26 on a conviction predating licensure, certification, or

1 registration or a criminal charge, arrest, or conviction
2 that was dismissed, sealed, or expunged or did not arise
3 from the regulated activity, as a share of the total such
4 expungement requests.

5 (Source: P.A. 99-227, eff. 8-3-15.)

6 (20 ILCS 2105/2105-207)

7 Sec. 2105-207. Records of Department actions.

8 (a) Any licensee subject to a licensing Act administered by
9 the Division of Professional Regulation and who has been
10 subject to disciplinary action by the Department may file an
11 application with the Department on forms provided by the
12 Department, along with the required fee of \$175 ~~\$200~~, to have
13 the records classified as confidential, not for public release,
14 and considered expunged for reporting purposes if:

15 (1) the application is submitted more than 3 ~~7~~ years
16 after the disciplinary offense or offenses occurred or
17 after restoration of the license, whichever is later;

18 (2) the licensee has had no incidents of discipline
19 under the licensing Act since the disciplinary offense or
20 offenses identified in the application occurred;

21 (3) the Department has no pending investigations
22 against the licensee; and

23 (4) the licensee is not currently in a disciplinary
24 status.

25 (b) An application to make disciplinary records

1 confidential shall only be considered by the Department for an
2 offense or action relating to:

3 (1) failure to pay taxes or student loans;

4 (2) continuing education;

5 (3) failure to renew a license on time;

6 (4) failure to obtain or renew a certificate of
7 registration or ancillary license;

8 (5) advertising; ~~or~~

9 (5.1) discipline based on criminal charges or
10 convictions:

11 (A) that did not arise from the licensed activity
12 and was unrelated to the licensed activity; or

13 (B) that were dismissed or for which records have
14 been sealed or expunged.

15 (5.2) past probationary status of a license issued to
16 new applicants on the sole or partial basis of prior
17 convictions; or

18 (6) any grounds for discipline removed from the
19 licensing Act.

20 (c) An application shall be submitted to and considered by
21 the Director of the Division of Professional Regulation upon
22 submission of an application and the required non-refundable
23 fee. The Department may establish additional requirements by
24 rule. The Department is not required to report the removal of
25 any disciplinary record to any national database. Nothing in
26 this Section shall prohibit the Department from using a

1 previous discipline for any regulatory purpose or from
2 releasing records of a previous discipline upon request from
3 law enforcement, or other governmental body as permitted by
4 law. Classification of records as confidential shall result in
5 removal of records of discipline from records kept pursuant to
6 Sections 2105-200 and 2105-205 of this Act.

7 (Source: P.A. 98-816, eff. 8-1-14.)

8 Section 10. The Criminal Identification Act is amended by
9 changing Section 12 as follows:

10 20 ILCS 2630/12)

11 Sec. 12. Entry of order; effect of expungement or sealing
12 records.

13 (a) Except with respect to law enforcement agencies, the
14 Department of Corrections, State's Attorneys, or other
15 prosecutors, and as provided in Section 13 of this Act, an
16 expunged or sealed record may not be considered by any private
17 or public entity in employment matters, certification,
18 licensing, revocation of certification or licensure, or
19 registration. Applications for employment must contain
20 specific language which states that the applicant is not
21 obligated to disclose sealed or expunged records of conviction
22 or arrest. The entity authorized to grant a license,
23 certification, or registration shall include, in an
24 application for licensure, certification, or registration,

1 specific language stating that the applicant is not obligated
2 to disclose sealed or expunged records of a conviction or
3 arrest; however, if the inclusion of that language in an
4 application for licensure, certification, or registration is
5 not practical, the entity shall publish on its website
6 instructions specifying that applicants are not obligated to
7 disclose sealed or expunged records of a conviction or arrest.

8 Employers may not ask if an applicant has had records expunged
9 or sealed.

10 (b) A person whose records have been sealed or expunged is
11 not entitled to remission of any fines, costs, or other money
12 paid as a consequence of the sealing or expungement. This
13 amendatory Act of the 93rd General Assembly does not affect the
14 right of the victim of a crime to prosecute or defend a civil
15 action for damages. Persons engaged in civil litigation
16 involving criminal records that have been sealed may petition
17 the court to open the records for the limited purpose of using
18 them in the course of litigation.

19 (Source: P.A. 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)