



Rep. Elgie R. Sims, Jr.

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1 AMENDMENT TO HOUSE BILL 3342

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3342 by replacing  
3 everything after the enacting clause with the following:

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

1 status, fine, or take any other disciplinary action as  
2 authorized in the licensing Act with regard to those licenses,  
3 certificates, or authorities. When making a determination of  
4 the appropriate disciplinary sanction to be imposed, the  
5 Department shall consider only evidence contained in the  
6 record. The Department shall consider any aggravating or  
7 mitigating factors contained in the record when determining the  
8 appropriate disciplinary sanction to be imposed.

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

13 (1) the seriousness of the offenses;

14 (2) the presence of multiple offenses;

15 (3) prior disciplinary history, including actions  
16 taken by other agencies in this State, by other states or  
17 jurisdictions, hospitals, health care facilities,  
18 residency programs, employers, or professional liability  
19 insurance companies or by any of the armed forces of the  
20 United States or any state;

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

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

25 (6) the motive for the offenses;

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

1 (8) financial gain as a result of committing the  
2 offenses; and

3 (9) the lack of cooperation with the Department or  
4 other investigative authorities.

5 (c) When making a determination of the appropriate  
6 disciplinary sanction to be imposed on a licensee, the  
7 Department shall consider, but is not limited to, the following  
8 mitigating factors contained in the record:

9 (1) the lack of prior disciplinary action by the  
10 Department or by other agencies in this State, by other  
11 states or jurisdictions, hospitals, health care  
12 facilities, residency programs, employers, insurance  
13 providers, or by any of the armed forces of the United  
14 States or any state;

15 (2) contrition for the offenses;

16 (3) cooperation with the Department or other  
17 investigative authorities;

18 (4) restitution to injured parties;

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

20 (6) any voluntary remedial actions taken.

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

22 (20 ILCS 2105/2105-131 new)

23 Sec. 2105-131. Applicants with criminal convictions;  
24 notice of denial.

25 (a) Except as provided in Section 2105-130 of this Act

1 regarding licensing restrictions based on enumerated offenses  
2 for health care workers as defined in the Health Care Worker  
3 Self-Referral Act, the Department, upon a finding that an  
4 applicant for a license, certificate, or registration was  
5 previously convicted of a felony or misdemeanor that may be  
6 grounds for refusing to issue a license or certificate or  
7 granting registration, shall consider any mitigating factors  
8 and evidence of rehabilitation contained in the applicant's  
9 record, including any of the following, in determining whether  
10 to grant a license, certificate, or registration:

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

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

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

23 (4) the age of the person at the time of the criminal  
24 offense;

25 (5) successful completion of sentence and, for  
26 applicants serving a term of parole or probation, a

1 progress report provided by the applicant's probation or  
2 parole officer that documents the applicant's compliance  
3 with conditions of supervision;

4 (6) evidence of the applicant's present fitness and  
5 professional character;

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

13 (8) any other mitigating factors that contribute to the  
14 person's potential and current ability to perform the job  
15 duties.

16 (b) It is the affirmative obligation of the Department to  
17 demonstrate that a prior conviction would impair the ability of  
18 the applicant to engage in a practice requiring registration,  
19 licensure, or certification by the Department. If the  
20 Department refuses to issue a license or certificate or grant  
21 registration to an applicant, the Department shall notify the  
22 applicant of the denial in writing with the following included  
23 in the notice of denial:

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

26 (2) a list of the conviction items that formed the sole

1 or partial basis for the refusal to issue a license,  
2 certificate, or registration;

3 (3) a list of the mitigating evidence presented by the  
4 applicant;

5 (4) reasons for refusing to issue a license,  
6 certificate, or registration specific to the evidence  
7 presented in mitigation of conviction items that formed the  
8 partial or sole basis for the Department's decision; and

9 (5) a summary of the appeal process or the earliest the  
10 applicant may reapply for a license, certificate, or  
11 registration, whichever is applicable.

12 (20 ILCS 2105/2105-135)

13 Sec. 2105-135. Qualification for licensure or  
14 registration; good moral character; applicant conviction  
15 records.

16 (a) The practice of professions licensed or registered by  
17 the Department is hereby declared to affect the public health,  
18 safety, and welfare and to be subject to regulation and control  
19 in the public interest. It is further declared to be a matter  
20 of public interest and concern that persons who are licensed or  
21 registered to engage in any of the professions licensed or  
22 registered by the Department are of good moral character, which  
23 shall be a continuing requirement of licensure or registration  
24 so as to merit and receive the confidence and trust of the  
25 public. Upon a finding by the Department that a person has

1 committed a violation of the disciplinary grounds of any  
2 licensing Act administered by the Department with regard to  
3 licenses, certificates, or authorities of persons exercising  
4 the respective professions, trades, or occupations, the  
5 Department is authorized to revoke, suspend, refuse to renew,  
6 place on probationary status, fine, or take any other  
7 disciplinary action it deems warranted against any licensee or  
8 registrant whose conduct violates the continuing requirement  
9 of good moral character.

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

19 (c) The Department shall not require applicants to report  
20 the following information and shall not consider the following  
21 criminal history records in connection with an application for  
22 licensure or registration:

23 (1) juvenile adjudications of delinquent minors as  
24 defined in Section 5-105 of the Juvenile Court Act of 1987  
25 subject to the restrictions set forth in Section 5-130 of  
26 that Act;

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

6           (3) records of arrest not followed by a conviction  
7           unless related to the practice of the profession; however,  
8           applicants shall not be asked to report any arrests, and an  
9           arrest not followed by a conviction shall not be the basis  
10           of a denial and may be used only to assess an applicant's  
11           rehabilitation;

12           (4) convictions overturned by a higher court; or

13           (5) convictions or arrests that have been sealed or  
14           expunged.

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

16           (20 ILCS 2105/2105-205) (was 20 ILCS 2105/60.3)

17           Sec. 2105-205. Publication of disciplinary actions; annual  
18           report.

19           (a) The Department shall publish on its website, at least  
20           monthly, final disciplinary actions taken by the Department  
21           against a licensee or applicant pursuant to any licensing Act  
22           administered by the Department. The specific disciplinary  
23           action and the name of the applicant or licensee shall be  
24           listed.

25           (b) No later than May 1 of each year, the Department must



1 prepare, publicly announce, and publish a report of summary  
2 statistical information relating to new and renewal license,  
3 certification, or registration applications during the  
4 preceding calendar year. Each report shall show at minimum:

5 (1) the number of applicants for each new or renewal  
6 license, certificate, or registration administered by the  
7 Department in the previous calendar year;

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

11 (3) the number of applicants for a new or renewal  
12 license, certificate, or registration in the previous  
13 calendar year who were granted a license, registration, or  
14 certificate;

15 (4) the number of applicants for a new or renewal  
16 license, certificate, or registration within the previous  
17 calendar year with a criminal conviction who were granted a  
18 license, certificate, or registration in the previous  
19 calendar year;

20 (5) the number of applicants for a new or renewal  
21 license, certificate, or registration in the previous  
22 calendar year who were denied a license, registration, or  
23 certificate;

24 (6) the number of applicants for new or renewal  
25 license, certificate, or registration in the previous  
26 calendar year with a criminal conviction who were denied a

1 license, certificate, or registration in part or in whole  
2 because of such conviction;

3 (7) the number of probationary licenses issued without  
4 monitoring within the previous calendar year to applicants  
5 with a criminal conviction;

6 (8) the number of probationary licenses issued with  
7 monitoring within the previous calendar year to applicants  
8 with a criminal conviction; and

9 (9) the number of licensees, certificate holders, or  
10 permittees who were granted expungement for a record of  
11 discipline based on a conviction predating licensure,  
12 certification, or registration or a criminal charge,  
13 arrest, or conviction that was dismissed, sealed, or  
14 expunged or did not arise from the regulated activity, as a  
15 share of the total such expungement requests.

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

17 (20 ILCS 2105/2105-207)

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

19 (a) Any licensee subject to a licensing Act administered by  
20 the Division of Professional Regulation and who has been  
21 subject to disciplinary action by the Department may file an  
22 application with the Department on forms provided by the  
23 Department, ~~along with the required fee of \$200,~~ to have the  
24 records classified as confidential, not for public release, and  
25 considered expunged for reporting purposes if:

1 (1) the application is submitted more than 3 7 years  
2 after the disciplinary offense or offenses occurred;

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

6 (3) the Department has no pending investigations  
7 against the licensee; and

8 (4) the licensee is not currently in a disciplinary  
9 status.

10 (b) An application to make disciplinary records  
11 confidential shall only be considered by the Department for an  
12 offense or action relating to:

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

14 (2) continuing education;

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

16 (4) failure to obtain or renew a certificate of  
17 registration or ancillary license;

18 (5) advertising; ~~or~~

19 (5.1) discipline based on criminal charges or  
20 convictions:

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

23 (B) that were dismissed or for which the records  
24 have been sealed or expunged;

25 (5.2) a probationary license issued to new applicants  
26 on the sole or partial basis of prior convictions; or

1           (6) any grounds for discipline removed from the  
2           licensing Act.

3           (c) An application shall be submitted to and considered by  
4           the Director of the Division of Professional Regulation upon  
5           submission of an application and the required non-refundable  
6           fee. The Department may establish additional requirements by  
7           rule. The Department is not required to report the removal of  
8           any disciplinary record to any national database. Nothing in  
9           this Section shall prohibit the Department from using a  
10          previous discipline for any regulatory purpose or from  
11          releasing records of a previous discipline upon request from  
12          law enforcement, or other governmental body as permitted by  
13          law. Classification of records as confidential shall result in  
14          removal of records of discipline from records kept pursuant to  
15          Sections 2105-200 and 2105-205 of this Act.

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

17           Section 10. The Criminal Identification Act is amended by  
18           changing Sections 12 and 13 as follows:

19           20 ILCS 2630/12)

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

22           (a) Except with respect to law enforcement agencies, the  
23           Department of Corrections, State's Attorneys, or other  
24           prosecutors, and as provided in Section 13 of this Act, an

1 expunged or sealed record may not be considered by any private  
2 or public entity in employment matters, certification,  
3 licensing, revocation of certification or licensure, or  
4 registration. Applications for employment must contain  
5 specific language which states that the applicant is not  
6 obligated to disclose sealed or expunged records of conviction  
7 or arrest. The entity authorized to grant a license,  
8 certification, or registration shall include, in an  
9 application for certification, registration, or licensure,  
10 specific language stating that the applicant is not obligated  
11 to disclose sealed or expunged records of a conviction or  
12 arrest; however, if the inclusion of that language in an  
13 application for certification, registration, or licensure is  
14 not practical, the entity shall publish on its website  
15 instructions specifying that applicants are not obligated to  
16 disclose sealed or expunged records of a conviction or arrest.  
17 Employers and entities authorized to grant a professional  
18 license, certification, or registration may not ask if an  
19 applicant has had records expunged or sealed.

20 (b) A person whose records have been sealed or expunged is  
21 not entitled to remission of any fines, costs, or other money  
22 paid as a consequence of the sealing or expungement. This  
23 amendatory Act of the 93rd General Assembly does not affect the  
24 right of the victim of a crime to prosecute or defend a civil  
25 action for damages. Persons engaged in civil litigation  
26 involving criminal records that have been sealed may petition

1 the court to open the records for the limited purpose of using  
2 them in the course of litigation.

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

4 (20 ILCS 2630/13)

5 Sec. 13. Retention and release of sealed records.

6 (a) The Department of State Police shall retain records  
7 sealed under subsection (c) or (e-5) of Section 5.2 or  
8 impounded under subparagraph (B) or (B-5) of paragraph (9) of  
9 subsection (d) of Section 5.2 and shall release them only as  
10 authorized by this Act. Felony records sealed under subsection  
11 (c) or (e-5) of Section 5.2 or impounded under subparagraph (B)  
12 or (B-5) of paragraph (9) of subsection (d) of Section 5.2  
13 shall be used and disseminated by the Department only as  
14 otherwise specifically required or authorized by a federal or  
15 State law, rule, or regulation that requires inquiry into and  
16 release of criminal records, including, but not limited to,  
17 subsection (A) of Section 3 of this Act, except those records  
18 shall not be used or disseminated in connection with an  
19 application for a professional or business license,  
20 registration, or certification not involving a licensed health  
21 care worker as defined in the Health Care Worker Self-Referral  
22 Act. However, all requests for records that have been expunged,  
23 sealed, and impounded and the use of those records are subject  
24 to the provisions of Section 2-103 of the Illinois Human Rights  
25 Act. Upon conviction for any offense, the Department of

1 Corrections shall have access to all sealed records of the  
2 Department pertaining to that individual.

3 (b) Notwithstanding the foregoing, all sealed or impounded  
4 records are subject to inspection and use by the court and  
5 inspection and use by law enforcement agencies and State's  
6 Attorneys or other prosecutors in carrying out the duties of  
7 their offices.

8 (c) The sealed or impounded records maintained under  
9 subsection (a) are exempt from disclosure under the Freedom of  
10 Information Act.

11 (d) The Department of State Police shall commence the  
12 sealing of records of felony arrests and felony convictions  
13 pursuant to the provisions of subsection (c) of Section 5.2 of  
14 this Act no later than one year from the date that funds have  
15 been made available for purposes of establishing the  
16 technologies necessary to implement the changes made by this  
17 amendatory Act of the 93rd General Assembly.

18 (Source: P.A. 97-1026, eff. 1-1-13; 97-1120, eff. 1-1-13;  
19 98-399, eff. 8-16-13; 98-463, eff. 8-16-13.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law."