



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, 2105-135, 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

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 2105-165 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 and except as provided in any licensing Act
4 administered by the Department in which convictions of certain
5 enumerated offenses are a bar to licensure, the Department,
6 upon a finding that an applicant for a license, certificate, or
7 registration was previously convicted of a felony or
8 misdemeanor that may be grounds for refusing to issue a license
9 or certificate or granting registration, shall consider any
10 mitigating factors and evidence of rehabilitation contained in
11 the applicant's record, including any of the following, to
12 determine whether a prior conviction will impair the ability of
13 the applicant to engage in the practice for which a license,
14 certificate, or registration is sought:

15 (1) the lack of direct relation of the offense for
16 which the applicant was previously convicted to the duties,
17 functions, and responsibilities of the position for which a
18 license is sought;

19 (2) unless otherwise specified, whether 5 years since a
20 felony conviction or 3 years since release from confinement
21 for the conviction, whichever is later, have passed without
22 a subsequent conviction;

23 (3) if the applicant was previously licensed or
24 employed in this State or other states or jurisdictions,
25 the lack of prior misconduct arising from or related to the
26 licensed position or position of employment;

1 (4) the age of the person at the time of the criminal
2 offense;

3 (5) successful completion of sentence and, for
4 applicants serving a term of parole or probation, a
5 progress report provided by the applicant's probation or
6 parole officer that documents the applicant's compliance
7 with conditions of supervision;

8 (6) evidence of the applicant's present fitness and
9 professional character;

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

17 (8) any other mitigating factors that contribute to the
18 person's potential and current ability to perform the job
19 duties.

20 (b) If the Department refuses to issue a license or
21 certificate or grant registration to an applicant based upon a
22 conviction or convictions, in whole or in part, the Department
23 shall notify the applicant of the denial in writing with the
24 following included in the notice of denial:

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

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

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

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

11 (20 ILCS 2105/2105-135)

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

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

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

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

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

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

26 (2) law enforcement records, court records, and

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

5 (3) records of arrest not followed by a charge or
6 conviction;

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

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

14 (6) convictions or arrests that have been sealed or
15 expunged.

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

17 (20 ILCS 2105/2105-205) (was 20 ILCS 2105/60.3)

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

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

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

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

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

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

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

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

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

1 such conviction;

2 (7) the number of licenses issued within the previous
3 calendar year to applicants with a criminal conviction; and

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

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

12 (20 ILCS 2105/2105-207)

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

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

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

24 (2) the licensee has had no incidents of discipline
25 under the licensing Act since the disciplinary offense or

1 offenses identified in the application occurred;

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

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

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

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

10 (2) continuing education;

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

12 (4) failure to obtain or renew a certificate of
13 registration or ancillary license;

14 (5) advertising; ~~or~~

15 (5.1) discipline based on criminal charges or
16 convictions:

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

19 (B) that were dismissed or for which records have
20 been sealed or expunged.

21 (5.2) past probationary status of a license issued to
22 new applicants on the sole or partial basis of prior
23 convictions; or

24 (6) any grounds for discipline removed from the
25 licensing Act.

26 (c) An application shall be submitted to and considered by

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

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

14 Section 10. The Criminal Identification Act is amended by
15 changing Section 12 as follows:

16 20 ILCS 2630/12)

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

19 (a) Except with respect to law enforcement agencies, the
20 Department of Corrections, State's Attorneys, or other
21 prosecutors, and as provided in Section 13 of this Act, an
22 expunged or sealed record may not be considered by any private
23 or public entity in employment matters, certification,
24 licensing, revocation of certification or licensure, or

1 registration. Applications for certification, registration, or
2 licensure shall ~~employment must~~ contain specific language
3 which states that the applicant is not obligated to disclose
4 sealed or expunged records of conviction or arrest. If it is
5 not reasonably feasible to include the language in the
6 application, the entity authorized to grant a license,
7 certification, or registration shall publish on its website
8 instructions specifying that applicants are not obligated to
9 disclose sealed or expunged records of a conviction or arrest.
10 Employers may not ask if an applicant has had records expunged
11 or sealed.

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

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