

# SB2853



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2853

Introduced 2/13/2018, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2105/2105-15

Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Requires the Department of Financial and Professional Regulation to make available on its website general information on how the Department uses criminal history information in its decisions on licensure applications, including a list of enumerated offenses that bar licensure (rather than requiring the Department to have rules on how a person with criminal history would apply for a non-binding, advisory opinion from the Department as to whether his or her criminal history would bar licensure). Effective immediately.

LRB100 16063 SMS 31182 b

A BILL FOR

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 Section 2105-15 as follows:

7 (20 ILCS 2105/2105-15)

8 Sec. 2105-15. General powers and duties.

9 (a) The Department has, subject to the provisions of the  
10 Civil Administrative Code of Illinois, the following powers and  
11 duties:

12 (1) To authorize examinations in English to ascertain  
13 the qualifications and fitness of applicants to exercise  
14 the profession, trade, or occupation for which the  
15 examination is held.

16 (2) To prescribe rules and regulations for a fair and  
17 wholly impartial method of examination of candidates to  
18 exercise the respective professions, trades, or  
19 occupations.

20 (3) To pass upon the qualifications of applicants for  
21 licenses, certificates, and authorities, whether by  
22 examination, by reciprocity, or by endorsement.

23 (4) To prescribe rules and regulations defining, for

1 the respective professions, trades, and occupations, what  
2 shall constitute a school, college, or university, or  
3 department of a university, or other institution,  
4 reputable and in good standing, and to determine the  
5 reputability and good standing of a school, college, or  
6 university, or department of a university, or other  
7 institution, reputable and in good standing, by reference  
8 to a compliance with those rules and regulations; provided,  
9 that no school, college, or university, or department of a  
10 university, or other institution that refuses admittance  
11 to applicants solely on account of race, color, creed, sex,  
12 sexual orientation, or national origin shall be considered  
13 reputable and in good standing.

14 (5) To conduct hearings on proceedings to revoke,  
15 suspend, refuse to renew, place on probationary status, or  
16 take other disciplinary action as authorized in any  
17 licensing Act administered by the Department with regard to  
18 licenses, certificates, or authorities of persons  
19 exercising the respective professions, trades, or  
20 occupations and to revoke, suspend, refuse to renew, place  
21 on probationary status, or take other disciplinary action  
22 as authorized in any licensing Act administered by the  
23 Department with regard to those licenses, certificates, or  
24 authorities.

25 The Department shall issue a monthly disciplinary  
26 report.

1           The Department shall deny any license or renewal  
2 authorized by the Civil Administrative Code of Illinois to  
3 any person who has defaulted on an educational loan or  
4 scholarship provided by or guaranteed by the Illinois  
5 Student Assistance Commission or any governmental agency  
6 of this State; however, the Department may issue a license  
7 or renewal if the aforementioned persons have established a  
8 satisfactory repayment record as determined by the  
9 Illinois Student Assistance Commission or other  
10 appropriate governmental agency of this State.  
11 Additionally, beginning June 1, 1996, any license issued by  
12 the Department may be suspended or revoked if the  
13 Department, after the opportunity for a hearing under the  
14 appropriate licensing Act, finds that the licensee has  
15 failed to make satisfactory repayment to the Illinois  
16 Student Assistance Commission for a delinquent or  
17 defaulted loan. For the purposes of this Section,  
18 "satisfactory repayment record" shall be defined by rule.

19           The Department shall refuse to issue or renew a license  
20 to, or shall suspend or revoke a license of, any person  
21 who, after receiving notice, fails to comply with a  
22 subpoena or warrant relating to a paternity or child  
23 support proceeding. However, the Department may issue a  
24 license or renewal upon compliance with the subpoena or  
25 warrant.

26           The Department, without further process or hearings,

1 shall revoke, suspend, or deny any license or renewal  
2 authorized by the Civil Administrative Code of Illinois to  
3 a person who is certified by the Department of Healthcare  
4 and Family Services (formerly Illinois Department of  
5 Public Aid) as being more than 30 days delinquent in  
6 complying with a child support order or who is certified by  
7 a court as being in violation of the Non-Support Punishment  
8 Act for more than 60 days. The Department may, however,  
9 issue a license or renewal if the person has established a  
10 satisfactory repayment record as determined by the  
11 Department of Healthcare and Family Services (formerly  
12 Illinois Department of Public Aid) or if the person is  
13 determined by the court to be in compliance with the  
14 Non-Support Punishment Act. The Department may implement  
15 this paragraph as added by Public Act 89-6 through the use  
16 of emergency rules in accordance with Section 5-45 of the  
17 Illinois Administrative Procedure Act. For purposes of the  
18 Illinois Administrative Procedure Act, the adoption of  
19 rules to implement this paragraph shall be considered an  
20 emergency and necessary for the public interest, safety,  
21 and welfare.

22 (6) To transfer jurisdiction of any realty under the  
23 control of the Department to any other department of the  
24 State Government or to acquire or accept federal lands when  
25 the transfer, acquisition, or acceptance is advantageous  
26 to the State and is approved in writing by the Governor.

1           (7) To formulate rules and regulations necessary for  
2 the enforcement of any Act administered by the Department.

3           (8) To exchange with the Department of Healthcare and  
4 Family Services information that may be necessary for the  
5 enforcement of child support orders entered pursuant to the  
6 Illinois Public Aid Code, the Illinois Marriage and  
7 Dissolution of Marriage Act, the Non-Support of Spouse and  
8 Children Act, the Non-Support Punishment Act, the Revised  
9 Uniform Reciprocal Enforcement of Support Act, the Uniform  
10 Interstate Family Support Act, the Illinois Parentage Act  
11 of 1984, or the Illinois Parentage Act of 2015.  
12 Notwithstanding any provisions in this Code to the  
13 contrary, the Department of Professional Regulation shall  
14 not be liable under any federal or State law to any person  
15 for any disclosure of information to the Department of  
16 Healthcare and Family Services (formerly Illinois  
17 Department of Public Aid) under this paragraph (8) or for  
18 any other action taken in good faith to comply with the  
19 requirements of this paragraph (8).

20           (8.5) To accept continuing education credit for  
21 mandated reporter training on how to recognize and report  
22 child abuse offered by the Department of Children and  
23 Family Services and completed by any person who holds a  
24 professional license issued by the Department and who is a  
25 mandated reporter under the Abused and Neglected Child  
26 Reporting Act. The Department shall adopt any rules

1           necessary to implement this paragraph.

2           (9) To perform other duties prescribed by law.

3           (a-5) Except in cases involving default on an educational  
4 loan or scholarship provided by or guaranteed by the Illinois  
5 Student Assistance Commission or any governmental agency of  
6 this State or in cases involving delinquency in complying with  
7 a child support order or violation of the Non-Support  
8 Punishment Act and notwithstanding anything that may appear in  
9 any individual licensing Act or administrative rule, no person  
10 or entity whose license, certificate, or authority has been  
11 revoked as authorized in any licensing Act administered by the  
12 Department may apply for restoration of that license,  
13 certification, or authority until 3 years after the effective  
14 date of the revocation.

15           (b) (Blank).

16           (c) For the purpose of securing and preparing evidence, and  
17 for the purchase of controlled substances, professional  
18 services, and equipment necessary for enforcement activities,  
19 recoupment of investigative costs, and other activities  
20 directed at suppressing the misuse and abuse of controlled  
21 substances, including those activities set forth in Sections  
22 504 and 508 of the Illinois Controlled Substances Act, the  
23 Director and agents appointed and authorized by the Director  
24 may expend sums from the Professional Regulation Evidence Fund  
25 that the Director deems necessary from the amounts appropriated  
26 for that purpose. Those sums may be advanced to the agent when

1 the Director deems that procedure to be in the public interest.  
2 Sums for the purchase of controlled substances, professional  
3 services, and equipment necessary for enforcement activities  
4 and other activities as set forth in this Section shall be  
5 advanced to the agent who is to make the purchase from the  
6 Professional Regulation Evidence Fund on vouchers signed by the  
7 Director. The Director and those agents are authorized to  
8 maintain one or more commercial checking accounts with any  
9 State banking corporation or corporations organized under or  
10 subject to the Illinois Banking Act for the deposit and  
11 withdrawal of moneys to be used for the purposes set forth in  
12 this Section; provided, that no check may be written nor any  
13 withdrawal made from any such account except upon the written  
14 signatures of 2 persons designated by the Director to write  
15 those checks and make those withdrawals. Vouchers for those  
16 expenditures must be signed by the Director. All such  
17 expenditures shall be audited by the Director, and the audit  
18 shall be submitted to the Department of Central Management  
19 Services for approval.

20 (d) Whenever the Department is authorized or required by  
21 law to consider some aspect of criminal history record  
22 information for the purpose of carrying out its statutory  
23 powers and responsibilities, then, upon request and payment of  
24 fees in conformance with the requirements of Section 2605-400  
25 of the Department of State Police Law (20 ILCS 2605/2605-400),  
26 the Department of State Police is authorized to furnish,



1 pursuant to positive identification, the information contained  
2 in State files that is necessary to fulfill the request.

3 (e) The provisions of this Section do not apply to private  
4 business and vocational schools as defined by Section 15 of the  
5 Private Business and Vocational Schools Act of 2012.

6 (f) (Blank).

7 (g) Notwithstanding anything that may appear in any  
8 individual licensing statute or administrative rule, the  
9 Department shall deny any license application or renewal  
10 authorized under any licensing Act administered by the  
11 Department to any person who has failed to file a return, or to  
12 pay the tax, penalty, or interest shown in a filed return, or  
13 to pay any final assessment of tax, penalty, or interest, as  
14 required by any tax Act administered by the Illinois Department  
15 of Revenue, until such time as the requirement of any such tax  
16 Act are satisfied; however, the Department may issue a license  
17 or renewal if the person has established a satisfactory  
18 repayment record as determined by the Illinois Department of  
19 Revenue. For the purpose of this Section, "satisfactory  
20 repayment record" shall be defined by rule.

21 In addition, a complaint filed with the Department by the  
22 Illinois Department of Revenue that includes a certification,  
23 signed by its Director or designee, attesting to the amount of  
24 the unpaid tax liability or the years for which a return was  
25 not filed, or both, is prima facie evidence of the licensee's  
26 failure to comply with the tax laws administered by the

1 Illinois Department of Revenue. Upon receipt of that  
2 certification, the Department shall, without a hearing,  
3 immediately suspend all licenses held by the licensee.  
4 Enforcement of the Department's order shall be stayed for 60  
5 days. The Department shall provide notice of the suspension to  
6 the licensee by mailing a copy of the Department's order to the  
7 licensee's address of record or emailing a copy of the order to  
8 the licensee's email address of record. The notice shall advise  
9 the licensee that the suspension shall be effective 60 days  
10 after the issuance of the Department's order unless the  
11 Department receives, from the licensee, a request for a hearing  
12 before the Department to dispute the matters contained in the  
13 order.

14 Any suspension imposed under this subsection (g) shall be  
15 terminated by the Department upon notification from the  
16 Illinois Department of Revenue that the licensee is in  
17 compliance with all tax laws administered by the Illinois  
18 Department of Revenue.

19 The Department may promulgate rules for the administration  
20 of this subsection (g).

21 (h) The Department may grant the title "Retired", to be  
22 used immediately adjacent to the title of a profession  
23 regulated by the Department, to eligible retirees. For  
24 individuals licensed under the Medical Practice Act of 1987,  
25 the title "Retired" may be used in the profile required by the  
26 Patients' Right to Know Act. The use of the title "Retired"

1 shall not constitute representation of current licensure,  
2 registration, or certification. Any person without an active  
3 license, registration, or certificate in a profession that  
4 requires licensure, registration, or certification shall not  
5 be permitted to practice that profession.

6 (i) The Department shall make available on its website  
7 general information explaining how the Department utilizes  
8 criminal history information in making licensure application  
9 decisions, including a list of enumerated offenses that serve  
10 as a statutory bar to licensure. ~~Within 180 days after December~~  
11 ~~23, 2009 (the effective date of Public Act 96-852), the~~  
12 ~~Department shall promulgate rules which permit a person with a~~  
13 ~~criminal record, who seeks a license or certificate in an~~  
14 ~~occupation for which a criminal record is not expressly a per~~  
15 ~~se bar, to apply to the Department for a non-binding, advisory~~  
16 ~~opinion to be provided by the Board or body with the authority~~  
17 ~~to issue the license or certificate as to whether his or her~~  
18 ~~criminal record would bar the individual from the licensure or~~  
19 ~~certification sought, should the individual meet all other~~  
20 ~~licensure requirements including, but not limited to, the~~  
21 ~~successful completion of the relevant examinations.~~

22 (Source: P.A. 99-85, eff. 1-1-16; 99-227, eff. 8-3-15; 99-330,  
23 eff. 8-10-15; 99-642, eff. 7-28-16; 99-933, eff. 1-27-17;  
24 100-262, eff. 8-22-17; revised 10-4-17.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.