

HB2474



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2474

Introduced 2/20/2009, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

New Act

Creates the Task Force on Inventorying Employment Restrictions Act. Creates the Task Force on Inventorying Employment Restrictions within the Department of Employment Security. Provides that the Task Force shall review the statutes, administrative rules, policies, and practices that restrict employment of persons with criminal history and report its findings and recommendations to the Governor and General Assembly by January 31, 2010. Effective immediately.

LRB096 09137 RLC 19286 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the Task
5 Force on Inventorying Employment Restrictions Act.

6 Section 5. Purpose. The General Assembly finds and declares
7 that:

8 (1) public safety dictates the adoption of employment
9 restrictions to protect vulnerable populations, to prevent
10 the risk of loss and liability, and to minimize the
11 likelihood of harm to the public, fellow employees and
12 customers;

13 (2) gainful employment after release from prison is one
14 of the critical elements necessary to achieve successful
15 reentry after prison and that employment has been shown to
16 reduce recidivism;

17 (3) to make our communities safer, public safety also
18 requires that employment opportunities not be so
19 restricted that people with criminal records are unable to
20 engage in gainful employment;

21 (4) many State laws and policies impose restrictions on
22 the employment of persons with criminal records including
23 State government jobs, jobs in State-licensed, regulated

1 and funded entities, and jobs requiring State
2 certification;

3 (5) no comprehensive review of these restrictions has
4 been undertaken to evaluate whether the restrictions are
5 substantially related to the safety, trust and
6 responsibility required of the job or to the goal of
7 furthering public safety;

8 (6) a less restrictive approach is preferred if it both
9 furthers public safety and preserves employment
10 opportunities; and

11 (7) the State's agencies, boards, and commissions can
12 assume a leadership role in providing employment
13 opportunities to people with criminal records by reviewing
14 their employment policies and practices and identifying
15 barriers to employment that can safely be removed to enable
16 people with criminal records to demonstrate their
17 rehabilitation.

18 Section 10. Definitions. As used in this Act:

19 "State agencies" shall mean the following State
20 agencies, boards, and commissions: Department on Aging,
21 Department of Agriculture, Office of Appellate Defender,
22 Office of the State's Attorneys Appellate Prosecutor,
23 Illinois Arts Council, Office of the Attorney General,
24 Auditor General, Capital Development Board, Department of
25 Central Management Services, Department of Children and

1 Family Services, Civil Service Commission, Illinois
2 Department of Commerce and Economic Opportunity, Illinois
3 Commerce Commission, Illinois Community College Board,
4 State of Illinois Comprehensive Health Insurance Plan,
5 Office of the Comptroller, Department of Corrections,
6 Criminal Justice Information Authority, Illinois Council
7 on Developmental Disabilities, Illinois Deaf and Hard of
8 Hearing Commission, Commission on Discrimination and Hate
9 Crimes, State Board of Education, Illinois Educational
10 Labor Relations Board, State Board of Elections, Illinois
11 Emergency Management Agency, Department of Employment
12 Security, Environmental Protection Agency, Illinois State
13 Fair, Illinois Finance Authority, Department of Financial
14 and Professional Regulation, Office of the First Lady,
15 Illinois Gaming Board, Office of the Governor,
16 Guardianship and Advocacy Commission, Department of
17 Healthcare and Family Services, Board of Higher Education,
18 Historic Preservation Agency, Illinois Housing Development
19 Authority, Illinois Human Rights Commission, Department of
20 Human Rights, Department of Human Services, Illinois State
21 Board of Investment, Department of Juvenile Justice,
22 Office of the Lieutenant Governor, Department of Labor,
23 Illinois Labor Relations Board, Illinois Law Enforcement
24 Training Standards Board, Illinois Liquor Control
25 Commission, Illinois Lottery, Governor's Office of
26 Management and Budget, Illinois Medical District

1 Commission, Department of Military Affairs, Department of
2 Natural Resources, Pollution Control Board, Prairie State
3 2000 Authority, Property Tax Appeal Board, Department of
4 Public Health, Illinois Prisoner Review Board, Illinois
5 Racing Board, Department of Revenue, Office of the
6 Secretary of State, State Fire Marshal, Illinois State
7 Police, State Police Merit Board, State Retirement
8 Systems, Office of the State Treasurer, State Universities
9 Civil Service System, State Universities Retirement
10 System, Illinois Student Assistance Commission, Illinois
11 Supreme Court, Illinois Teachers' Retirement System,
12 Illinois State Toll Highway Authority, Department of
13 Transportation, Department of Veterans Affairs',
14 Governor's Office of Women's Affairs, and Illinois
15 Workers' Compensation Commission.

16 Section 15. Task Force.

17 (a) The Task Force on Inventorying Employment Restrictions
18 is hereby created in the Department of Employment Security. The
19 purpose of the Task Force is to review the statutes,
20 administrative rules, policies and practices that restrict
21 employment of persons with a criminal history, as set out in
22 subsection (c) of this Section, and to report to the Governor
23 and the General Assembly those employment restrictions and
24 their impact on employment opportunities for people with
25 criminal records.

1 (b) Within 60 days after the effective date of this Act,
2 the President of the Senate, the Speaker of the House of
3 Representatives, the Minority Leader of the Senate, and the
4 Minority Leader of the House of Representatives shall each
5 appoint 2 members to the Task Force. In addition, the Director
6 or Secretary of each of the following, or his or her designee,
7 are members: the Department of Human Services, the Department
8 of Corrections, the Department of Commerce and Economic
9 Opportunity, the Department of Children and Family Services,
10 the Department of Human Rights, the Illinois State Board of
11 Education, the Illinois Board of Higher Education, and the
12 Illinois Community College Board. Members shall not receive
13 compensation. The Department of Employment Security shall
14 provide staff and other assistance to the Task Force.

15 (c) On or before September 1, 2009, all State agencies
16 shall produce a report for the Task Force that describes the
17 employment restrictions that are based on criminal records for
18 each occupation under the agency's jurisdiction and that of its
19 boards, if any, including, but not limited to, employment
20 within the agency; employment in facilities licensed,
21 regulated, supervised, or funded by the agency; employment
22 pursuant to contracts with the agency; and employment in
23 occupations that the agency licenses or provides
24 certifications to practice. For each occupation subject to a
25 criminal records-based restriction, the agency shall set forth
26 the following:

1 (1) the job title, occupation, job classification, or
2 restricted place of employment, including the range of
3 occupations affected in such places;

4 (2) the statute, regulation, policy, and procedure
5 that authorizes the restriction of applicants for
6 employment and licensure, current employees, and current
7 licenses;

8 (3) the substance and terms of the restriction, and

9 (A) if the statute, regulation, policy or practice
10 enumerates disqualifying offenses, a list of each
11 disqualifying offense, the time limits for each
12 offense, and the point in time when the time limit
13 begins;

14 (B) if the statute, regulation, policy or practice
15 does not enumerate disqualifying offenses and instead
16 provides for agency discretion in determining
17 disqualifying offenses, the criteria the agency has
18 adopted to apply the disqualification to individual
19 cases. Restrictions based on agency discretion
20 include, but are not limited to, restrictions based on
21 an offense "related to" the practice of a given
22 profession; an offense or act of "moral turpitude"; and
23 an offense evincing a lack of "good moral character".

24 (4) the procedures used by the agency to identify an
25 individual's criminal history, including but not limited
26 to disclosures on applications and background checks

1 conducted by law enforcement or private entities;

2 (5) the procedures used by the agency to determine and
3 review whether an individual's criminal history
4 disqualifies that individual;

5 (6) the year the restriction was adopted, and its
6 rationale;

7 (7) any exemption, waiver, or review mechanisms
8 available to seek relief from the disqualification based on
9 a showing of rehabilitation or otherwise, including the
10 terms of the mechanism, the nature of the relief it
11 affords, and whether an administrative and judicial appeal
12 is authorized;

13 (8) any statute, rule, policy and practice that
14 requires an individual convicted of a felony to have his
15 civil rights restored to become qualified for the job; and
16 9 copies of the following documents:

17 (A) forms, applications, and instructions provided
18 to applicants and those denied or terminated from jobs
19 or licenses based on their criminal record;

20 (B) forms, rules, and procedures that the agency
21 employs to provide notice of disqualification, to
22 review applications subject to disqualification, and
23 to provide for exemptions and appeals of
24 disqualification.

25 (C) memos, guidance, instructions to staff,
26 scoring criteria and other materials used by the agency

1 to evaluate the criminal histories of applicants,
2 licensees, and employees; and

3 (D) forms and notices used to explain waiver,
4 exemption and appeals procedures for denial,
5 suspensions and terminations of employment or
6 licensure based on criminal history.

7 (d) Each executive agency shall participate in a review to
8 determine the impact of the employment restrictions based on
9 criminal records and the effectiveness of existing
10 case-by-case review mechanisms. For each occupation under the
11 agency's jurisdiction for which there are employment
12 restrictions based on criminal records, each State agency must
13 provide the Task Force with a report, on or before November 1,
14 2009, for the previous 2-year period, setting forth:

15 (1) the total number of people currently employed in
16 the occupation whose employment or licensure required
17 criminal history disclosure, background checks or
18 restrictions;

19 (2) the number and percentage of individuals who
20 underwent a criminal history background check;

21 (3) the number and percentage of individuals who were
22 merely required to disclose their criminal history without
23 a criminal history background check;

24 (4) the number and percentage of individuals who were
25 found disqualified based on criminal history disclosure by
26 the applicant;

1 (5) the number and percentage of individuals who were
2 found disqualified based on a criminal history background
3 check;

4 (6) the number and percentage of individuals who sought
5 an exemption or waiver from the disqualification;

6 (7) the number and percentage of individuals who sought
7 an exemption or waiver who were subsequently granted the
8 exemption or waiver at the first level of agency review (if
9 multiple levels of review are available);

10 (8) the number and percentage of individuals who sought
11 an exemption or waiver who were subsequently granted the
12 exemption or waiver at the next level of agency review (if
13 multiple levels of review are available);

14 (9) the number and percentage of individuals who were
15 denied an exemption or waiver at the final level of agency
16 review, and then sought review through an administrative
17 appeal;

18 (10) the number and percentage of individuals who were
19 denied an exemption or waiver at the final level of agency
20 review, and then sought review through an administrative
21 appeal and were then found qualified after such a review;

22 (11) the number and percentage of individuals who were
23 found disqualified where no waiver or exemption process is
24 available;

25 (12) the number and percentage of individuals who were
26 found disqualified where no waiver or exemption process is

1 available and who sought administrative review and then
2 were found qualified;

3 (13) if the agency maintains records of active licenses
4 or certifications, the executive agency shall provide the
5 total number of employees in occupations subject to
6 criminal history restrictions.

7 (e) The Task Force shall report its findings and
8 recommendations to the Governor and the General Assembly by
9 January 31, 2010.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.