



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB0297

Introduced 01/28/11, by Rep. Constance A. Howard

#### SYNOPSIS AS INTRODUCED:

20 ILCS 5000/15

Amends the Task Force on Inventorying Employment Restrictions Act. Requires that the Task Force on Inventorying Employment Restrictions submit to the Governor and the General Assembly findings and recommendations concerning employment restrictions that are not reasonably related to public safety. Provides that the findings and recommendations must be submitted to the Governor and the General Assembly by February 1, 2012. Provides that the Executive Director of the Illinois Criminal Justice Information Authority shall serve as an ex officio member of the Task Force. Provides that on or before August 1, 2011 (now, September 1, 2010), all State agencies shall produce a report for the Task Force that describes the employment restrictions that are based on criminal records for each occupation under the agency's jurisdiction and that of its boards. Effective immediately.

LRB097 06432 RLJ 46514 b

FISCAL NOTE ACT  
MAY APPLY

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 Task Force on Inventorying Employment  
5 Restrictions Act is amended by changing Section 15 as follows:

6 (20 ILCS 5000/15)

7 Sec. 15. Task Force.

8 (a) The Task Force on Inventorying Employment Restrictions  
9 is hereby created in the Illinois Criminal Justice Information  
10 Authority. The purpose of the Task Force is to review the  
11 statutes, administrative rules, policies and practices that  
12 restrict employment of persons with a criminal history, as set  
13 out in subsection (c) of this Section, and to report to the  
14 Governor and the General Assembly those employment  
15 restrictions and their impact on employment opportunities for  
16 people with criminal records. The report shall also identify  
17 any employment restrictions that are not reasonably related to  
18 public safety.

19 (b) Within 60 days after the effective date of this  
20 amendatory Act of the 97th General Assembly Act, the President  
21 of the Senate, the Speaker of the House of Representatives, the  
22 Minority Leader of the Senate, and the Minority Leader of the  
23 House of Representatives shall each appoint 2 members of the

1 General Assembly to the Task Force. The term of office of any  
2 member of the public appointed by the President of the Senate,  
3 the Speaker of the House of Representatives, the Minority  
4 Leader of the Senate, or the Minority Leader of the House of  
5 Representatives serving on the effective date of this  
6 amendatory Act of the 97th General Assembly shall end on that  
7 date. The Governor shall appoint the Task Force chairperson. In  
8 addition, the Director or Secretary of each of the following,  
9 or his or her designee, are members: the Department of Human  
10 Services, the Department of Corrections, the Department of  
11 Commerce and Economic Opportunity, the Department of Children  
12 and Family Services, the Department of Human Rights, the  
13 Department of Central Management Services, the Department of  
14 Employment Security, the Department of Public Health, the  
15 Department of State Police, the Illinois State Board of  
16 Education, the Illinois Board of Higher Education, ~~and~~ the  
17 Illinois Community College Board, and the Illinois Criminal  
18 Justice Information Authority. Members shall not receive  
19 compensation. The Illinois Criminal Justice Information  
20 Authority shall provide staff and other assistance to the Task  
21 Force.

22 (c) On or before August 1, 2011 ~~September 1, 2010~~, all  
23 State agencies shall produce a report for the Task Force that  
24 describes the employment restrictions that are based on  
25 criminal records for each occupation under the agency's  
26 jurisdiction and that of its boards, if any, including, but not

1 limited to, employment within the agency; employment in  
2 facilities licensed, regulated, supervised, or funded by the  
3 agency; employment pursuant to contracts with the agency; and  
4 employment in occupations that the agency licenses or provides  
5 certifications to practice. For each occupation subject to a  
6 criminal records-based restriction, the agency shall set forth  
7 the following:

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

11 (2) the statute, regulation, policy, and procedure  
12 that authorizes the restriction of applicants for  
13 employment and licensure, current employees, and current  
14 licenses;

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

16 (A) if the statute, regulation, policy or practice  
17 enumerates disqualifying offenses, a list of each  
18 disqualifying offense, the time limits for each  
19 offense, and the point in time when the time limit  
20 begins;

21 (B) if the statute, regulation, policy or practice  
22 does not enumerate disqualifying offenses and instead  
23 provides for agency discretion in determining  
24 disqualifying offenses, the criteria the agency has  
25 adopted to apply the disqualification to individual  
26 cases. Restrictions based on agency discretion

1 include, but are not limited to, restrictions based on  
2 an offense "related to" the practice of a given  
3 profession; an offense or act of "moral turpitude"; and  
4 an offense evincing a lack of "good moral character".

5 (4) the procedures used by the agency to identify an  
6 individual's criminal history, including but not limited  
7 to disclosures on applications and background checks  
8 conducted by law enforcement or private entities;

9 (5) the procedures used by the agency to determine and  
10 review whether an individual's criminal history  
11 disqualifies that individual;

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

14 (7) any exemption, waiver, or review mechanisms  
15 available to seek relief from the disqualification based on  
16 a showing of rehabilitation or otherwise, including the  
17 terms of the mechanism, the nature of the relief it  
18 affords, and whether an administrative and judicial appeal  
19 is authorized;

20 (8) any statute, rule, policy and practice that  
21 requires an individual convicted of a felony to have his  
22 civil rights restored to become qualified for the job; and  
23 9 copies of the following documents:

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

1 (B) forms, rules, and procedures that the agency  
2 employs to provide notice of disqualification, to  
3 review applications subject to disqualification, and  
4 to provide for exemptions and appeals of  
5 disqualification;

6 (C) memos, guidance, instructions to staff,  
7 scoring criteria and other materials used by the agency  
8 to evaluate the criminal histories of applicants,  
9 licensees, and employees; and

10 (D) forms and notices used to explain waiver,  
11 exemption and appeals procedures for denial,  
12 suspensions and terminations of employment or  
13 licensure based on criminal history.

14 (d) Each State agency shall participate in a review to  
15 determine the impact of the employment restrictions based on  
16 criminal records and the effectiveness of existing  
17 case-by-case review mechanisms. The information required under  
18 this subsection (d) shall be limited to the data and  
19 information in the possession of the State agency on the  
20 effective date of this amendatory Act of the 97th General  
21 Assembly. With respect to compliance with the requirements of  
22 this subsection (d), a State agency is under no obligation to  
23 collect additional data or information. For each occupation  
24 under the agency's jurisdiction for which there are employment  
25 restrictions based on criminal records, each State agency must  
26 provide the Task Force with a report, on or before November 1,

1 2011 March 1, 2010, for the previous 2-year period, setting  
2 forth:

3 (1) the total number of people currently employed in  
4 the occupation whose employment or licensure required  
5 criminal history disclosure, background checks or  
6 restrictions;

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

9 (3) the number and percentage of individuals who were  
10 merely required to disclose their criminal history without  
11 a criminal history background check;

12 (4) the number and percentage of individuals who were  
13 found disqualified based on criminal history disclosure by  
14 the applicant;

15 (5) the number and percentage of individuals who were  
16 found disqualified based on a criminal history background  
17 check;

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

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

24 (8) the number and percentage of individuals who sought  
25 an exemption or waiver who were subsequently granted the  
26 exemption or waiver at the next level of agency review (if

1 multiple levels of review are available);

2 (9) the number and percentage of individuals who were  
3 denied an exemption or waiver at the final level of agency  
4 review, and then sought review through an administrative  
5 appeal;

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

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

13 (12) the number and percentage of individuals who were  
14 found disqualified where no waiver or exemption process is  
15 available and who sought administrative review and then  
16 were found qualified; and

17 (13) if the agency maintains records of active licenses  
18 or certifications, the executive agency shall provide the  
19 total number of employees in occupations subject to  
20 criminal history restrictions.

21 (e) The Task Force shall report its findings and  
22 recommendations to the Governor and the General Assembly by  
23 December 31, 2010.

24 (f) The Task Force shall report to the Governor and the  
25 General Assembly its findings and recommendations as to any  
26 employment restrictions that are not reasonably related to



1 public safety by February 1, 2012.

2 (Source: P.A. 96-593, eff. 8-18-09; 96-1360, eff. 7-28-10.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.