



Rep. Constance A. Howard

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1 AMENDMENT TO SENATE BILL 1338

2 AMENDMENT NO. _____. Amend Senate Bill 1338, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 5000/15)

8 Sec. 15. Task Force.

9 (a) The Task Force on Inventorying Employment Restrictions
10 is hereby created in the Illinois Criminal Justice Information
11 Authority. The purpose of the Task Force is to review the
12 statutes, administrative rules, policies and practices that
13 restrict employment of persons with a criminal history, as set
14 out in subsection (c) of this Section, and to report to the
15 Governor and the General Assembly those employment
16 restrictions and their impact on employment opportunities for

1 people with criminal records. The report shall also identify
2 any employment restrictions that are not reasonably related to
3 public safety.

4 (b) Within 60 days after the effective date of this
5 amendatory Act of the 97th General Assembly, the President of
6 the Senate, the Speaker of the House of Representatives, the
7 Minority Leader of the Senate, and the Minority Leader of the
8 House of Representatives shall each appoint 2 members of the
9 General Assembly to the Task Force. The term of office of any
10 member of the public appointed by the President of the Senate,
11 the Speaker of the House of Representatives, the Minority
12 Leader of the Senate, or the Minority Leader of the House of
13 Representatives serving on the effective date of this
14 amendatory Act of the 97th General Assembly shall end on that
15 date. The Governor shall appoint the Task Force chairperson. In
16 addition, the Director or Secretary of each of the following,
17 or his or her designee, are members: the Department of Human
18 Services, the Department of Corrections, the Department of
19 Commerce and Economic Opportunity, the Department of Children
20 and Family Services, the Department of Human Rights, the
21 Department of Central Management Services, the Department of
22 Employment Security, the Department of Public Health, the
23 Department of State Police, the Illinois State Board of
24 Education, the Illinois Board of Higher Education, the Illinois
25 Community College Board, and the Illinois Criminal Justice
26 Information Authority. Members shall not receive compensation.

1 The Illinois Criminal Justice Information Authority shall
2 provide staff and other assistance to the Task Force.

3 (c) On or before November 1, 2011, all State agencies shall
4 produce a report for the Task Force that describes the
5 employment restrictions that are based on criminal records for
6 each occupation under the agency's jurisdiction and that of its
7 boards, if any, including, but not limited to, employment
8 within the agency; employment in facilities licensed,
9 regulated, supervised, or funded by the agency; employment
10 pursuant to contracts with the agency; and employment in
11 occupations that the agency licenses or provides
12 certifications to practice. For each occupation subject to a
13 criminal records-based restriction, the agency shall set forth
14 the following:

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

18 (2) the statute, regulation, policy, and procedure
19 that authorizes the restriction of applicants for
20 employment and licensure, current employees, and current
21 licenses;

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

23 (A) if the statute, regulation, policy or practice
24 enumerates disqualifying offenses, a list of each
25 disqualifying offense, the time limits for each
26 offense, and the point in time when the time limit

1 begins;

2 (B) if the statute, regulation, policy or practice
3 does not enumerate disqualifying offenses and instead
4 provides for agency discretion in determining
5 disqualifying offenses, the criteria the agency has
6 adopted to apply the disqualification to individual
7 cases. Restrictions based on agency discretion
8 include, but are not limited to, restrictions based on
9 an offense "related to" the practice of a given
10 profession; an offense or act of "moral turpitude"; and
11 an offense evincing a lack of "good moral character".

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

16 (5) the procedures used by the agency to determine and
17 review whether an individual's criminal history
18 disqualifies that individual;

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

21 (7) any exemption, waiver, or review mechanisms
22 available to seek relief from the disqualification based on
23 a showing of rehabilitation or otherwise, including the
24 terms of the mechanism, the nature of the relief it
25 affords, and whether an administrative and judicial appeal
26 is authorized;

1 (8) any statute, rule, policy and practice that
2 requires an individual convicted of a felony to have his
3 civil rights restored to become qualified for the job; and
4 9 copies of the following documents:

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

8 (B) forms, rules, and procedures that the agency
9 employs to provide notice of disqualification, to
10 review applications subject to disqualification, and
11 to provide for exemptions and appeals of
12 disqualification;

13 (C) memos, guidance, instructions to staff,
14 scoring criteria and other materials used by the agency
15 to evaluate the criminal histories of applicants,
16 licensees, and employees; and

17 (D) forms and notices used to explain waiver,
18 exemption and appeals procedures for denial,
19 suspensions and terminations of employment or
20 licensure based on criminal history.

21 (d) Each State agency shall participate in a review to
22 determine the impact of the employment restrictions based on
23 criminal records and the effectiveness of existing
24 case-by-case review mechanisms. The information required under
25 this subsection (d) shall be limited to the data and
26 information in the possession of the State agency on the

1 effective date of this amendatory Act of the 97th General
2 Assembly. With respect to compliance with the requirements of
3 this subsection (d), a State agency is under no obligation to
4 collect additional data or information. For each occupation
5 under the agency's jurisdiction for which there are employment
6 restrictions based on criminal records, each State agency must
7 provide the Task Force with a report, on or before February 1,
8 2012, for the previous 2-year period, setting forth:

9 (1) the total number of people currently employed in
10 the occupation whose employment or licensure required
11 criminal history disclosure, background checks or
12 restrictions;

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

15 (3) the number and percentage of individuals who were
16 merely required to disclose their criminal history without
17 a criminal history background check;

18 (4) the number and percentage of individuals who were
19 found disqualified based on criminal history disclosure by
20 the applicant;

21 (5) the number and percentage of individuals who were
22 found disqualified based on a criminal history background
23 check;

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

26 (7) the number and percentage of individuals who sought

1 an exemption or waiver who were subsequently granted the
2 exemption or waiver at the first level of agency review (if
3 multiple levels of review are available);

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

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

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

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

19 (12) the number and percentage of individuals who were
20 found disqualified where no waiver or exemption process is
21 available and who sought administrative review and then
22 were found qualified; and

23 (13) if the agency maintains records of active licenses
24 or certifications, the executive agency shall provide the
25 total number of employees in occupations subject to
26 criminal history restrictions.

1 (e) (Blank).

2 (f) The Task Force shall report to the Governor and the
3 General Assembly its findings, including recommendations as to
4 any employment restrictions that are not reasonably related to
5 public safety, by July 1, 2013 ~~September 1, 2012~~.

6 (Source: P.A. 96-593, eff. 8-18-09; 96-1360, eff. 7-28-10;
7 97-501, eff. 8-23-11.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".