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The EEOC's 2012 Criminal Records Guidance Act

Prepared for

IERTF Meeting

November 8, 2012

Presented by

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An Early Civil Rights Issue

- Title VII of the Civil Rights Act of 1964, as amended (Title VII), prohibits employment discrimination based on race, color, religion, sex, or national origin.

- Since at least 1969, the EEOC has received, investigated, and resolved employment discrimination charges alleging that employers used criminal records in a discriminatory way, most often based on race or national origin.

- In 1987, 1990, and 2006, the EEOC issued previous policy statements on this issue.

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Reasons for Updating the Guidance

- Criminal records are now online
- Most employers now do criminal background checks for some or all jobs
- More working-age people have criminal records
- Government fosters reentry efforts
- Legal developments under Title VII

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The New Guidance on the Consideration of Arrests and Convictions in Employment Decisions Under Title VII

- A criminal background check that asks for a person's entire criminal record is too broad.
- A criminal background check that targets the risks in the job and finds criminal conduct that relates to those risks is better.
- When such a criminal record is identified for an applicant or employee, give the person an opportunity to explain circumstances or mistakes in the record before excluding him from a job: "individualized assessment."

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Employer Title VII Liability

- Disparate Treatment Discrimination: job applicant/ employee demonstrates that employer treated him differently because of his race, national origin, on another protected basis

- Disparate Impact Discrimination: employer's neutral policy or practice has the effect of disproportionately screening out a Title VII-protected group and the employer fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.

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Business Necessity Defined: Green v. Missouri Pacific Railroad

"Green factors" relevant to assessing whether job exclusion is job related & consistent with business necessity:

- Nature & gravity of offense or conduct
- Time that has passed since offense or conduct
- Nature of the job held or sought

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Individualized Assessment

- Employer informs individual that he may be excluded because of past criminal conduct;
- Provides opportunity to individual to demonstrate that the exclusion does not properly apply to him;
- Considers whether additional info shows that the policy as applied is not job related/ not consistent with business necessity.

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Records of Arrest

- Arrest records may be unreliable. Were charges filed? Were charges dismissed? Even if prosecuted, people are presumed innocent until proven guilty.

- EEOC strongly discourages relying only on a record of an arrest. But, employers may make an employment decision based on the conduct underlying the arrest, if the conduct makes the person unfit for the position in question.

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Records of Convictions

- Employers should only consider convictions that are related to the job, and employers should have a time limit for considering old convictions.

- Convictions may be missing or inaccurate (for example, after the record is sealed

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EEOC Employer Best Practices

EEOC “best practices” are recommended policies (not required) to help employers establish fair and defensible screening practices consistent the requirements of Title VII of the Civil Rights Act of 1964

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The Basics

- Eliminate policies or practices that exclude people with a criminal record from employment.

- Train managers, hiring officials, and decision-makers about Title VII's anti-discrimination provisions.

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Develop a Fair Policy

Fashion narrowly tailored written policy and procedure, which includes:

- Identifying the essential job requirements under actual circumstances;
- Specific offenses that may demonstrate unfitness for job;
- The duration of exclusions;
- Provisions for an individual assessment (i.e., consider age at time of offense, number of offenses, rehabilitation, work history, etc.)

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Develop a Fair Policy (continued)

- Document the policy's rationale:
  - record the justification for the policy and procedures
  - keep a record of consultations and research considered in crafting the policy
- Train key staff in how to implement the policy and procedures

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Additional Precautions

- When asking questions about criminal records, limit inquiries to records for which exclusion would be job related for the position and consistent with business necessity

- Keep criminal record information confidential – use it only for intended purposes.

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Remove Application Questions

"As a best practice, and consistent with applicable laws, the Commission recommends that employers do not ask about convictions on job applications and that, if and when they make such inquiries, the inquiries be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity."

State of Illinois

Department of Financial & Professional Regulation

Criminal Convictions & Licensing at the IDFPR

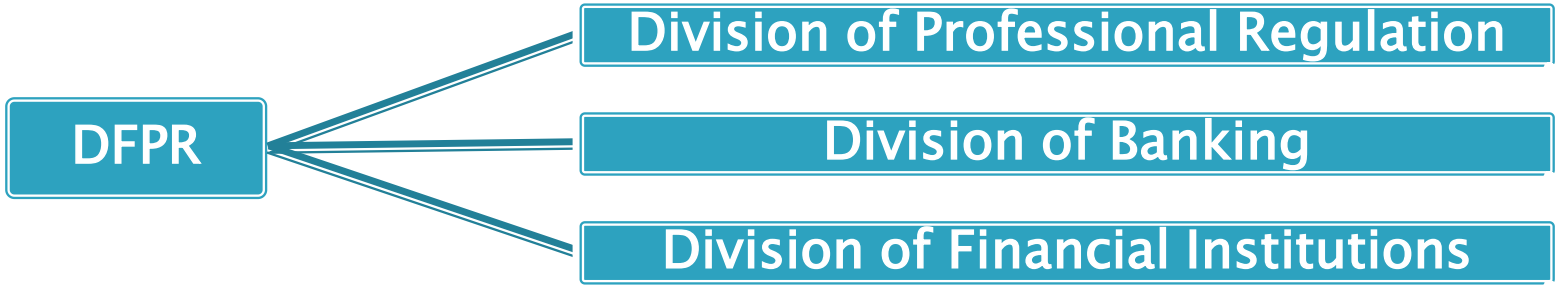
John Lagattuta

IDFPR Labor Relations Director

7/20/2012

www.idfpr.com

The Department



- Department of Financial and Professional Regulation
  - Division of Professional Regulation
    - Medical, Boxing/MMA, Real Estate, Auctioneers etc.
  - Division of Banks
    - Commercial Banks, Mortgage Banking, etc.
  - Division of Financial Institutions
    - Currency Exchanges, Check Cashers, etc.
- 175 Professions with over 1,000,000 Licensees

The Licensure Process

- Candidate submits application
  - Biographical Information
  - Proof of completion of requirements
    - Education, clinical training, examination, etc.
  - Personal history disclosure
- Application reviewed by Department
  - Credentials substantiated
  - May request more information
  - May issue or deny licensure
- Licenses require renewal at regular intervals

PART VI: Personal History Information *(must be completed by all applicants)*	YES	NO
1. Have you been convicted of any criminal offense in any state or in federal court (other than minor traffic violations)? *If yes, attach a certified copy of the court records regarding your conviction.*		
2. Have you been convicted of a felony?		

The Licensure Process Cont'd

- **Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004** (225 ILCS 447/)
  - Sec. 15-10. Qualifications for Licensure
    - (a) A person is qualified for licensure as a private detective if he or she meets all of the following requirements:
      - (2) Has not been convicted of a any felony in any jurisdiction or at least 10 years has elapsed since the time of full discharge from a sentence imposed for a felony conviction.
      - (3) Is of good moral character. Good character is a continuing requirement of licensure. Conviction of crimes other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure.

The Licensure Process Cont'd

- **Massage Licensing Act** (225 ILCS 57/)
  - Sec. 15-15. Licensure Requirements.
    - (a)(2). The applicant is at least 18 years of age and of good moral character. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of the United States or any state or territory thereof that is a felony or a misdemeanor or any crime that is directly related to the practice of the profession. Such a conviction shall not operate automatically as a complete bar to a license, except in the case of a conviction for prostitution, rape, or sexual misconduct, or where the applicant is a registered sex offender.

The Licensure Process Cont'd

- **Mortgage Loan Originator License Act** (205 ILCS 635/7-3(2)
  - Sec. 7-3. Issuance of License. The Director shall not issue a mortgage loan originator license unless the Director makes at a minimum the following findings:
    - (2) The applicant has not been convicted of, or pled guilty of nolo contendere to, a felony in a domestic , foreign, or military court:
      - (A) during the 7-year period preceding the date of the application for licensing and registration; or
      - (B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

    provided that any pardon of a conviction shall not be a conviction for purposes of this item (2).

The Licensure Process Cont'd

- **Real Estate Act** (225 ILCS 454/)
  - Sec. 5-25. Good moral character.
    - When an applicant has his or her license revoked on a prior occasion or when an applicant is found to have committed any of the practices enumerated in Sect. 20-20 of this Act or when an applicant has been convicted of or enters a plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony involving moral turpitude in any court of competent jurisdiction in this court or any other state, district, or territory of the United States or of a foreign country, the Board may consider the prior revocation, conduct, or conviction in its determination of the applicant's moral character and whether to grant the applicant's license.

The Application/Disciplinary Process

- Application/Complaint
- Review
- Prosecutions
- Hearing
- Director's Order

The Intent to Deny/Complaint Process

Receive Application/Complaint

File sent to Prosecutions for Review

Communicate with Applicant

Evaluate the merit of issuance or prosecution

Negotiate settlement agreement

Submit possible agreement to Board

Parties sign Consent Order

Director signs Consent Order

Applicant requests hearing /Conduct hearing

ALJ recommends outcome to Board

Board recommends outcome to Director

Director signs order issuing discipline

Complaint Origins

- 225 ILCS 60/23. Reports relating to professional conduct and capacity.
  - (A) Entities Required to Report.
    - (4) State's Attorneys. The State's Attorney of each county shall report to the Disciplinary Board, within 5 days, any instances in which a person licensed under this Act is convicted of any felony or class A misdemeanor. The State's Attorney of each county may report to the Disciplinary Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.

Disciplines

- REVOCATION
- SUSPENSION
- PROBATION
- REPRIMAND
- FINE

Revocation by Operation of Law

- Health Care Worker Licensure Actions – Sex Crimes. 20 ILCS 2105/2105-165
  - (a) When a licensed health care worker, as defined in the Health Care Worker Self Referral Act,
    - (1) has been convicted of a criminal act that requires registration under the Sex Offender Registration Act
    - (2) has been convicted of a criminal battery against any patient in the course of patient care or treatment, including any offense based on sexual conduct or sexual penetration
    - (3) has been convicted of a forcible felony OR

Revocation– Operation of Law Cont'd

- (4) Is required as a part of a criminal sentence to register under the Sex Offender Registration Act, then, notwithstanding any other provision of law to the contrary, the license of the health care worker shall by operation of law be permanently revoked without a hearing.

IMPORTANT NOTICE: Completion of this form is necessary to accomplish the requirements outlined in 225 of the Illinois Compiled Statutes. Disclosure of this information is VOLUNTARY. However, failure to comply may result in this form not being processed.	**HEALTH CARE WORKERS CHARGED WITH *OR* CONVICTED OF CRIMINAL ACTS**	SUPPORTING DOCUMENT **CCA**

1. NAME LAST FIRST MIDDLE	3. PROFESSIONAL LICENSE NUMBER (if any) ___ - _____
2. ADDRESS STREET, CITY, STATE, ZIP CODE	4. SOCIAL SECURITY NUMBER ___-__-____

Pursuant to 20ILCS 2105-165(a), the Department requires the following professionals to disclose information regarding convictions pertaining to certain offenses. **Please check applicable profession.**

- ☐ Advanced Practice Nurses
- ☐ Audiologists
- ☐ Clinical Psychologists
- ☐ Clinical Social Workers
- ☐ Dental Hygienists
- ☐ Dentists
- ☐ Occupational Therapists
- ☐ Optometrists
- ☐ Pharmacists
- ☐ Podiatrists
- ☐ Physical Therapists
- ☐ Physician Assistants
- ☐ Physicians (036)
- ☐ Registered Nurses
- ☐ Speech Pathologists

In order for your application to be evaluated, you must respond to each of the following questions:

	Yes	No
1) Are you currently charged with or have you been convicted of a criminal act that requires registration under the Sex Offender Registration Act? *	☐	☐
2) Are you currently charged with or have you been convicted of a criminal battery against any patient *in the course of patient care or treatment*, including any offense based on sexual conduct or sexual penetration?	☐	☐
3) Are you required, as part of a criminal sentence, to register under the Sex Offender Registration Act? *	☐	☐

*If **YES** to any of the above, attach a certified copy of the court records regarding your conviction, the nature of the offense and date of discharge, if applicable, as well as a statement from the probation or parole office.*

Certification Statement

Under penalties of perjury, I declare that I have examined this Form and all supporting documents and/or information submitted by me in connection therewith, and to the best of my knowledge, they are true, correct, and complete.

_____ Signature of Applicant

_____ Date

Chaperone Order

20 ILCS 2105/2105-165(c).

- …Within 5 business days after receiving notice from the State's Attorney of the filing of the criminal charges against the health care worker, the Secretary shall issue an administrative order that the health care worker shall immediately practice only with a chaperone during all patient encounters pending the outcome of the criminal proceedings.

Certificate of Relief from Disabilities

- 730 ILCS 5/5-5. 5-15. Certificates of relief from disabilities issued by courts.
  - (a) Any circuit court of this State may issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in that court if the court imposed the sentence.

Certificate of Good Conduct

- 730 ILCS 5/5-5. 5-25. Certificate of good conduct.
  - (a-6) A certificate of good conduct may be granted as provided in this Section to an eligible offender as defined in Section 5-5. 5-5 of this Code who has demonstrated by clear and convincing evidence that he or she has been a law-abiding citizen and is fully rehabilitated.

Certificate of Rehabilitation

- New applications received = 37, 676
  - Applications with criminal convictions = 139
    - Licenses denied= 83
    - Licenses issued = 56
    - Certificates of Relief requested = 3
      - Certificate of Relief issued = 1

Non-Binding Advisory Opinions

- 20 ILCS 2105/2105-15. General Powers and duties.
  - (i) Within 180 days after December 23, 2009 (the effective date of Public Act 96-852), the Department shall promulgate rules which permit a person with a criminal record, who seeks a license or certificate in an occupation for which a criminal record is not expressly a per se bar, to apply to the Department for a non-binding, advisory opinion to be provided by the Board or body with the authority to issue the license or certificate as to whether his or her criminal record would bar the individual from the licensure or certification sought, should the individual meet all other licensure requirements including, but not limited to, the successful completion of the relevant examinations.

Non-Binding Advisory Opinions Cont'd

- The Administrative Rules regarding the Non-Binding Advisory Opinions can be found at :
  - 68 Ill. Admin. Code 1130

Illinois Department of Financial and Professional Regulation

Non-Binding Advisory Opinion

FOR OFFICIAL USE ONLY

IMPORTANT NOTICE: Completion of this form is necessary for consideration for licensure under 225 of the Illinois Compiled Statutes. Disclosure of this information is VOLUNTARY. However, failure to comply may result in this form not being processed.

GENERAL INSTRUCTIONS

Please read the instructions carefully as this is a form for individuals wishing to request a Non-Binding Advisory Opinion whether a criminal record would bar the individual from the licensure or certification sought should the individual meet all other licensure requirements for licensure. Type or print legibly with blue or black ink. If an area does not apply, please indicate as "N/A". Incomplete request forms or forms completed incorrectly will be returned to the requestor. All signature areas must contain an original signature (*digital or copied signatures are not acceptable*). Currently there are NO fees required for the submission of this form.

PART A: Applicant Identifying Information:

1. TODAY'S DATE

2. OFFICE USE ONLY - Date Received:

3. NAME LAST FIRST MI

4. TELEPHONE NUMBER (___ ___ ___) ___ ___ ___ - ___ ___ ___ ___

5. PERMANENT MAILING ADDRESS CITY STATE ZIP CODE

6. BUSINESS MAILING ADDRESS CITY STATE ZIP CODE

7. E-MAIL ADDRESS

8. SIGNATURE OF APPLICANT

Do You Hold An Illinois License Issued By the Department of Financial and Professional Regulation? ☐ Yes ☐ No

If Yes, List Licenses Held By Number:

PART B: Indicate the Intended Action:

CHECK BOX INDICATING THE APPROPRIATE INFORMATION REGARDING YOUR APPLICATION

1 - Is this the first time you have made a request for a Non-Binding Advisory Opinion in Illinois? ☐ Yes ☐ No

If No, please indicate the profession and date for which you sought a Non-Binding Advisory Opinion

_____

2 - Have you received or obtained a Certificate of Relief From Disabilities? If Yes, please attach a copy. ☐ Yes ☐ No

PART C: Name of the Profession You Intend to Seek Licensure For:

A list of professions may be obtained on the Department website at www.idfpr.com . A separate Form must be completed for each profession for which you seek a Non-Binding Advisory Opinion.

_____

_____

PART D: Record Of Licensure Information:

If you have ever been licensed to practice the profession for which you are now making application, or held a related license, complete the information requested below. If you have ever held a temporary, trainee or apprenticeship license, or a permit, it must be listed here also. In addition, the INSTRUCTION SHEET enclosed with this Application package may instruct you to have Certification(s) of Licensure in other state(s) prepared and submitted in support of your application (contact other state(s) regarding possible fee). You must also list all other licenses held in Illinois; however, certification of licensure from Illinois is not required. Failure to disclose all licenses held may result in denial of your application or other appropriate action.

	Profession/License Name	License Number	Date of Issuance	Dates License Maintained	License Status (Active, Lapsed, Probation, etc.)	Any Disciplinary Actions Taken or Pending
State of Original Licensure						
State of Most Current Licensure						
All Other States						

PART E: Prior Convictions:

Please list any prior conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony or misdemeanor under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession for which you seek a Non-Binding Advisory Opinion. Please attach a copy of all convictions or plea agreements for the convictions set forth below.

(*If additional space is needed, attach a separate sheet.*)

PART F: Offense/Mitigation:

Please provide a description of the offense/conviction for which you seek a Non-Binding Advisory Opinion. In addition, you may also provide a description of any mitigating factors surrounding the offense/conviction as well as any mitigating factors occurring after the offense/conviction. Please note that any statement of mitigation should include, at a minimum, information indicating when the offense occurred; any direct relationship between multiple or previous criminal offenses and/or convictions; the age of the individual at the time of occurrence of the criminal offenses; any education obtained or attempted; and, any other information you believe may show rehabilitation and good conduct. (*If additional space is needed, attach a separate sheet.*)

PART G: Certifying Statement:

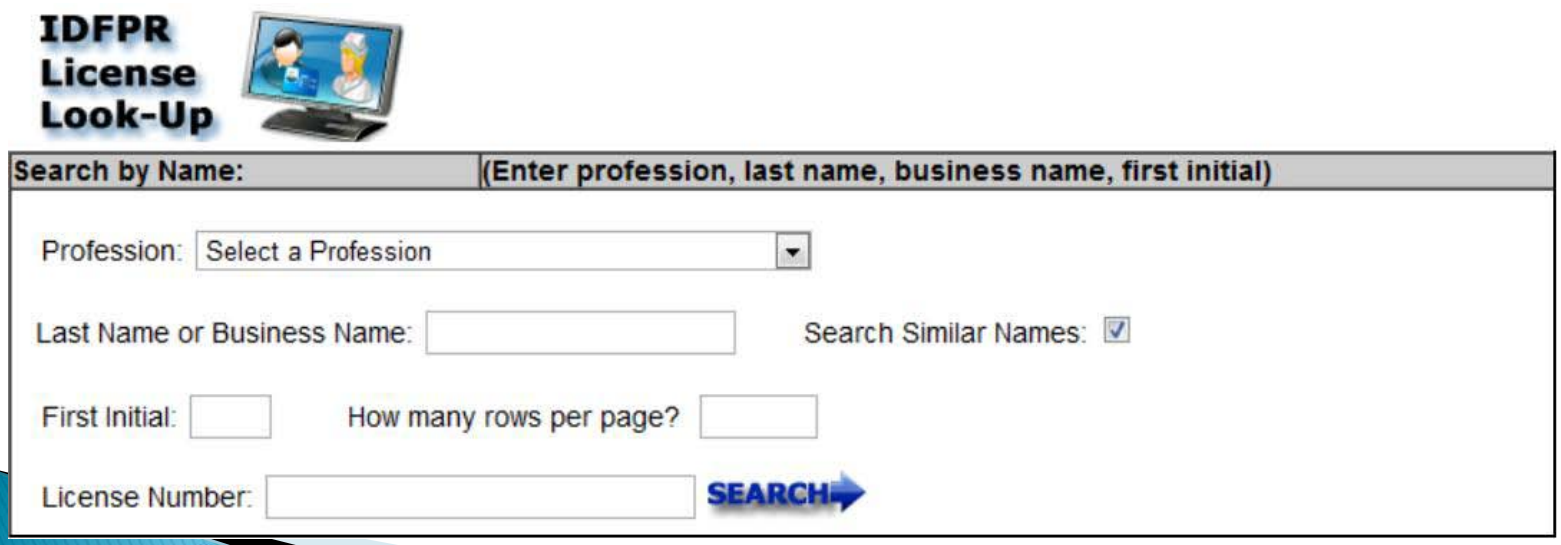
Under penalties of perjury, I declare that I have examined this Request Form and all supporting documents submitted by me in connection therewith and, to the best of my knowledge, they are true, correct, and complete. By signing below, I hereby acknowledge that I understand that this is a request for a Non-Binding Advisory Opinion as to the effect of any conviction/offense set forth herein, and I further acknowledge that I understand that any response received by me in response to the submission of this Form is advisory and non-binding upon the Department.

Signature of Applicant

Date

How Discipline Affects a Licensee

- Affects professional relationships
- Discipline is reported to and from Sister-States
  - Can't Move Out of State to Avoid a Discipline
- Discipline appears on Licensee's record
  - Decreased marketability
  - Financial impact of change in employability and fines



Where to File Employment Discrimination Claims

The following table provides general guidance. This is not a guarantee of coverage. Certain exceptions and limitations may apply. You may be able to file your claim with more than one agency. Please telephone an agency if you have questions.

Agencies to Contact	Chicago Commission on Human Relations	Cook County Commission on Human Rights	Illinois Department of Human Rights	Equal Employment Opportunity Commission (U.S.)
Types of Discrimination Covered	Race Color Religion Sex (including sexual harassment) National Origin Ancestry Age Disability Sexual Orientation Gender Identity Marital Status Parental Status Source of Income Military Discharge Status Credit History Limited Retaliation	Race Color Religion Sex (including sexual harassment) National Origin Ancestry Age Disability Sexual Orientation Gender Identity Marital Status Parental Status Source of Income Military Discharge Status Housing Status Retaliation Aiding/Abetting Willful Interference	Race Color Religion Sex (including sexual harassment) National Origin Ancestry Age Disability Sexual Orientation (includes gender identity) Marital Status Pregnancy Unfavorable Military Discharge Military Status Citizenship Status Arrest Record Immigration-Related Practices Native Language Order of Protection Status Retaliation Aiding/Abetting Willful Interference Coercion	Race Color Religion Sex (including sexual harassment) National Origin Ancestry Age Disability Genetic Information Retaliation
Geographic Limitations	Violation occurred within the City of Chicago	Violation occurred within Cook County	Violation occurred within Illinois	Violation occurred within U.S. or at U.S. company located outside U.S.
Time Limitations	Must file within 180 days of alleged violation	Must file within 180 days of alleged violation	Must file within 180 days of alleged violation	300 days (or 180 days if state fair employment agency does not cover)
Who Can Be Sued	Employers (no minimum number of employees) Labor Organizations Employment Agencies Individuals	Employers (no minimum number of employees) Labor Organizations Employment Agencies Individuals	Employers with at least 15 employees in Illinois; or with at least 1 employee for sexual harassment, disability, retaliation, public contractors, state/local gov't units, apprenticeship & training programs Labor Organizations Employment Agencies Individual sexual harassers	Employers with at least 15 employees for Title VII and ADA claims and state and local governments; with at least 20 employees for ADEA; with at least 1 employee for Equal Pay Act, federal government, & educational institutions Labor Organizations Employment Agencies Apprenticeship and Training Programs

Agencies to Contact	Chicago Commission on Human Relations	Cook County Commission on Human Rights	Illinois Department of Human Rights	Equal Employment Opportunity Commission (U.S.)
Kinds of Relief Available	Make whole damages (such as back pay, lost benefits and emotional distress damages) Other Damages (such as interest) Punitive Damages Injunctive Relief (such as reinstatement) Fines to the City Attorneys Fees & Costs to prevailing complainant	Make whole damages (such as back pay, lost benefits and emotional distress damages) Other Damages (such as interest) Punitive Damages Injunctive Relief (such as reinstatement), including emergency relief Fines to the County Attorneys Fees & Costs to prevailing complainant	Make whole damages (such as back pay, lost benefits and emotional distress damages) Other Damages (such as interest) Injunctive Relief (such as reinstatement and barring contracts with the State), including emergency relief Attorneys Fees & Costs to prevailing complainant	Make whole damages (such as back pay, lost benefits and reinstatement) Compensatory Damages (such as out-of-pocket and emotional harm) Punitive Damages Injunctive Relief, including emergency relief Attorneys Fees & Costs to prevailing complainant
Agency Contact Information	Chicago Commission on Human Relations 740 N. Sedgwick 4th Floor Chicago, IL 60654 (312) 744-4111 (312) 744-1088 (TTY) (312) 744-1081 (FAX)	Cook Co. Commission on Human Rights 69 W. Washington St. Suite 3040 Chicago, IL 60602 (312) 603-1100 (312) 603-1101 (TDD) (312) 603-9988 (FAX)	Illinois Department of Human Rights James R. Thompson Center, 100 W. Randolph 10th Floor, Intake Unit Chicago, IL 60601 (312) 814-6200 (866) 740-3953 (TTY) (312) 814-6251 (FAX) www.illinois.gov/dhr	U.S. Equal Employment Opportunity Commission Chicago District Office 500 W. Madison Suite 2000 Chicago, IL 60661 (800) 669-4000 (312) 869-8001 (TTY) (312) 869-8220 (FAX)
Office Hours	Filing Hours: Monday through Friday 9:00 - 5:00 (2 copies of all filings required) Intake Hours: Monday through Friday 9:00 - 3:00	Office Hours: Monday through Friday 8:30 - 5:00 Intake Hours: Monday through Friday 8:30 - 5:00	Office Hours: Monday through Friday 8:30 - 5:00 Intake Hours: Monday through Thursday 8:30 - 3:00	Office Hours: Monday through Friday 8:30 - 5:00 Intake Hours: Monday through Friday 8:30 - 3:30
Other Forms of Discrimination Covered	Housing Public Accommodations Credit & Bonding Transactions	Housing Public Accommodations Credit Transactions County Facilities, Services and Programs	Housing Public Accommodations Financial Credit Sexual Harassment in Education	

9/17/2012

Illinois Department of Financial and Professional Regulation
Manuel Flores, Acting Secretary
Division of Professional Regulation (DPR)
Jay Stewart, Director

Professionals and/or Areas of Licensure Regulated by DPR

Acupuncture	Electrology	Pharmacy
Auctioneering	Genetic Counseling	Physical Therapy
Architecture	Home Inspection	Physician's Assistant
Athletics	Home Medical Equip. and Services	Podiatry
Athletic Training	Humane Euthanasia	Professional Counseling
Athlete Agents	Interior Design	Professional Engineering
Appraisal	Time Share/Land Sales	Geology
Barbering	Landscape Architecture	Professional Service Corporation
Cosmetology	Land Surveying	Psychology
Esthetics	Limited Liability	Public Accounting
Hair Braiding	Marriage and Family Therapy	Time Share/Land Sale
Nail Technology	Massage	Respiratory Care
Cemetery Oversight	Medical	Roofing
Collections	Chiropractic	Shorthand Reporting
Community Assoc. Mgmt.	Medical Corporation Act	Social Work
Ill. Controlled Substances Act	Naprapathy	Speech Language Pathology and Audiology
Dentistry	Nursing	Structural Engineering
Detection of Deception	Nursing Home Administration	Surgical Assistants
Detective	Occupational Therapy	Veterinary Medicine
Detective	Optometry	Wholesale Drug Distribution
Alarm , Security and Locksmith	Mail Order Opthalmic Provider	
Dietetics Nutrition	Orthotics/Prosthetics/Pedorthics, Perfusionist	

Professional Boards/Committees:

- 51 Professional Licensing Boards/Committees serve in an advisory capacity to the Director.

Ancillary Acts Governing Department Administration:

- Administrative Procedure Act
- Americans with Disabilities Act
- Civil Administrative Code
- Code of Civil Procedure – Administrative Review
- Freedom of Information Act
- Limited Liability Company Act
- Open Meetings Act

* DEFINITIONS

730 ILCS 150 et. seq:—Acts that require Sex Offender Registration:

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

11-20.1 (child pornography),
11-20.3 (aggravated child pornography),
11-6 (indecent solicitation of a child),
11-9.1 (sexual exploitation of a child),
11-9.2 (custodial sexual misconduct),
11-9.5 (sexual misconduct with a person with a disability),
11-15.1 (soliciting for a juvenile prostitute),
11-18.1 (patronizing a juvenile prostitute),
11-17.1 (keeping a place of juvenile prostitution),
11-19.1 (juvenile pimping),
11-19.2 (exploitation of a child),
11-25 (grooming),
11-26 (traveling to meet a minor),
12-13 (criminal sexual assault),
12-14 (aggravated criminal sexual assault),
12-14.1 (predatory criminal sexual assault of a child),
12-15 (criminal sexual abuse),
12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child).

An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),
10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 91 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 105 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,
11-6.5 (indecent solicitation of an adult),
11-15 (soliciting for a prostitute, if the victim is under 18 years of age),
11-16 (pandering, if the victim is under 18 years of age),
11-18 (patronizing a prostitute, if the victim is under 18 years of age),
11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), (E), and (E5) of this Section shall constitute a conviction for the purpose of this Article.

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS
PART 1285 MEDICAL PRACTICE ACT OF 1987
SECTION 1285.255 REHABILITATION

Section 1285.255 Rehabilitation

a) Upon written application to the Disciplinary Board for restoration of a license or certificate, or for any other relief, the Disciplinary Board shall consider, but is not limited to, the following in determining if the person is to be deemed sufficiently rehabilitated to warrant the public trust:

1) The seriousness of the offense that resulted in the disciplinary action being considered or being taken;

2) The length of time that elapsed since the disciplinary action was taken;

3) The profession, occupation and outside activities in which the applicant has been involved;

4) Any counseling, medical treatment, or other rehabilitative treatment received by the applicant;

5) Continuing medical education courses or other types of courses taken to correct the grounds for the disciplinary action being considered or having been taken;

6) The results of a clinical competency examination, designated by the Disciplinary Board, and paid for by the petitioner;

7) Written reports and oral testimony by peer review committees or other persons relating to the skill, knowledge, honesty, integrity and contriteness of the applicant;

8) Restitution to injured parties;

9) Future plans of the applicant;

10) Involvement of the applicant's family and friends in his or her rehabilitation process;

11) A written report of a physical or mental examination given by a physician

selected by the Disciplinary Board and paid for by the person being examined;

12) Any other information evidencing rehabilitation that would bear upon the applicant's request for relief or restoration of a license;

13) Whether the order imposing sanctions was appealed and, if so, whether a reviewing court granted a stay or delay of imposition of the sanction;

14) The date and disposition of any other petition for restoration filed since the last sanction was imposed; and

15) Whether there has been compliance with any probationary terms imposed.

b) The findings of the Disciplinary Board relating to the person's rehabilitation or application for restoration of license or certificate or other relief shall be submitted in written form to the Division for action by the Director.

(Source: Amended at 29 Ill. Reg. 18823, effective November 4, 2005)

Policy Initiatives that Affect the Reentry of People with Criminal Records

Cook County Focus

Ordinance (04-O-16) Cook County Re-Entry Employment Project **Sponsors:** County Commissioners Bobbie L. Steele, Roberto Maldonado, and Deborah Sims	**Objectives/Activities** Established a Re-entry Employment Demonstration Pilot Program with the goal of enrolling up to one hundred (100) adults who are former offenders and residents of the County in order to remove barriers to Cook County government employment opportunities and to encourage participation by County officers and by private sector employers as a strategy for increasing public safety and reducing recidivism. ▪ Goal was to fill entry-level positions in Cook County government that are identified as vacant in each fiscal year budget. Those placed will be paid a salary consistent with the grade level and all county health benefits. **Update:** During initial program implementation Cook County selected 8 candidates for permanent positions in County Government.	**Evaluation Component?** ☐ YES ☒ NO
Ordinance (08-O-01) Cook County Re-Entry Employment Bid /Incentive Program **Sponsors:** President, Todd Stroger, County Commissioners Earlean Collins and Robert Steele	**Objectives/Activities** The ordinance allows bidders seeking County construction work valued at $100,000 or more a chance to have their bids reduced up to one percent in the competitive bidding process in exchange for agreeing to use ex-offenders to perform between five and fifteen percent of the hours contracted. The ordinance calls for the creation of a Re-entry Employment Committee to work with non-profits to identify former offenders who might become candidates to work with private companies on County contracts. If approved, the Re-entry Employment Committee will consist of seven members including: • a representative from the Cook County Bureau of Human Resources • a representative from the Department of Capital Planning • a representative from the President's Office of Employment and Training • a representative recommended by the Office of Contract Compliance • a representative of a nonprofit organization whose mission is to reintegrate ex-offenders into society; and • two representatives appointed by the President of the Cook County Board of Commissioners, one of whom shall be a representative of organized labor and one of whom shall be a member of the Cook County Board of Commissioners. **Update**: 11/1/12, Cook County Workforce Partnership is evaluating the feasibility of program implementation.	**Evaluation Component?** ☒ **YES** ☐ **NO**

City of Chicago Focus

City of Chicago's Hiring Standards Effective Feb. 2007	**Objectives/Activities** City of Chicago's employment policy for individuals who have a criminal conviction record. This policy seeks to balance the need to more effectively integrate persons with criminal conviction histories back into society as productive citizens with sound business practices. To this end, the City is committed to: • helping people with a criminal conviction history reenter the work force, and by cultivating the necessary programs and supportive services that help them develop the skills needed to achieve self-sufficiency; • ensuring that individuals who have been convicted of criminal offenses are placed into and/or occupy City positions that are suitable and appropriate for the individual and do not pose undue risk for the City or the constituency it serves; • developing and implementing an overall hiring process that is fair, transparent, and free from improper influence and allows the City to recruit and employ the most qualified individuals for every position in City government. Application forms no longer require applicants to disclose convictions, ensuring that information regarding criminal conviction history does not affect the determination of whether the applicant possesses the minimum skills and qualifications necessary to satisfy eligibility requirements. Criminal conviction history is investigated only after the applicant has been determined to meet eligibility requirements and is actively being considered for hire. Successful applicants made a conditional offer of employment will be fingerprinted and required to complete a screening questionnaire. . If the investigation reveals a criminal conviction history, and the applicant was truthful in responding to the questionnaire, the City will utilize a case-by-case approach that includes the following factors: • nature of the specific offense(s) for which the applicant was convicted; • number of offenses; • length of time that has passed since the conviction(s); • age of the applicant at the time of the offense(s); • evidence of rehabilitation; • any other information relevant to the applicant's suitability. **Update:** 139 persons with criminal records have been received permanent positions in the City of Chicago since 2009.	**Evaluation Component?** ☒ YES ☐ NO

Policy Initiatives that Affect the Reentry of People with Criminal Records

Chicago Based/State Focus

7th Congressional District Ex-Offender Advisory Committee	Objectives/Activities	Evaluation Component?
Sponsor: Rep. Danny K. Davis [IL-7]	One of 32 committees staffed by the office of Congressman Danny Davis. Comprised of concerned citizens; representatives of private and public agencies; businesses; and educational, community, and faith-based organizations that focus on a wide range of reentry issues on the federal and state levels of government. Accomplishments include: (1) initiated expungement and policy summits in Chicago; (2) provided advocacy support/conducted a statewide voter education campaign in support of the Treatment on Demand referendum, which was supported by 72% of voters (1.2 million residents) in Cook County; (3) co-sponsored The Second Chance Act, which was signed into law by the President on 4/9/08. **Update**: Last Committee meeting was held at Hope Church, 5900 W. Iowa, Chicago, Ill on 7/16/12.	☐ YES ☒ NO

State Agency/State Focus

Cabrini Green Legal Aid Clinic Expungement Self-Help Desk	Objectives/Activities	Evaluation Component?
Lead Organization: Cabrini Green Legal Aid Center (CGLA) Clerk of the Circuit of Cook County Chicago Bar Foundation (CBF) Illinois Legal Aid Online (ILAO)	A collaborative effort that provides information on the three ways that a person can clear a criminal record in Illinois: (1) expungement, (2) sealing and (3) clemency. Helps individuals' complete forms if eligible. Individuals must have rap sheets to receive legal assistance. Located in Room 1006 of the Daley Center: 50 W. Washington St Monday – Friday 9:00 am – 12:00 pm	☒ YES ☐ NO **Tracking Data:** Cabrini Green released an expungement, sealing, and clemency report covering data from 7/1/11 to 6/30/12. ▪ 4,048 individuals served. ▪ 2,059 filed for expungement/sealing.

Non-Profit/State Focus

Community Support and Advisory Council (CSAC) **Lead Organizations:** ▪ Westside Health Authority ▪ Howard Area Community Center ▪ TARGET Area Development Corp. ▪ Tower of Refuge (Springfield, IL) ▪ Lutheran Social Services of Illinois (Marion, IL) ▪ Lutheran Social Services of Illinois (East St. Louis, IL)	**Objectives/Activities** Created as a part of Governor Blagojevich's national model Sheridan Drug Prison and Reentry Initiative in an advisory capacity to the Department of Corrections. Regularly reports on observations and recommendations for improving the successful reentry of Sheridan returnees to their communities. Comprised of volunteer members from various sectors of their communities, including law enforcement, business, education, health care, mental health, formerly incarcerated persons, crime victims, government officials, and the faith-based community. Since 2004 CSAC has cemented partnerships with over 100 community providers and provided supportive services to over 15,000 parolees. CSAC has (1) provided supportive services and case management, i.e. job referrals, food, clothing, IDs, mentoring, and family reunification; (2) established weekly support group meetings attended by individuals, families, and parolees; (3) established relationships in the community with numerous service providers, i.e. housing, drug treatment, job training and placement, and parole officers; (4) provided community advocacy regarding reentry issues, i.e. community forums and public hearings. Continuing as of 11/1/12.	**Evaluation Component?** ☐ YES ☒ NO
Developing Justice Coalition **Lead Organization:** Target Area Development Corp	**Objectives/Activities** A statewide cross-community alliance of 24 groups working to address criminal justice reforms, public safety, and prisoner reentry, all of which have placed a tremendous burden on families in our communities. • Provided leadership for the statewide campaign that led to the passage of SB3007. • Introduced two legislative proposals that have since become law and raised over $15 million for local safety efforts throughout the state of Illinois. **Update:** Continuing as of 11/1/12.	**Evaluation Component?** ☐ YES ☒ NO
District 1 IDOC Advisory Group **Lead Organization:** FAITH, Inc.	**Objectives/Activities** Convenes monthly to discuss programs, services, and policies impacting incarcerated and formerly incarcerated individuals primarily on Chicago's Westside. ▪ Led support of passage of ID legislation (Public Act: 92-0240). ▪ Contributed to the Prison-Based Reentry Preparation Systems Subcommittee Report to the Governor's Statewide Community Safety and Reentry Working Group. **Update:** The 162st meeting of the advisory group was be held on 11/2/12.	**Evaluation Component?** ☐ YES ☒ NO

Policy Initiatives that Affect the Reentry of People with Criminal Records

Non-Profit/State Focus

Council of Advisors to Reduce Recidivism through Employment (CARRE) **Lead Organization:** Safer Foundation **Collaborative:** 150 members	**Objectives/Activities** An advisory council comprised of community organizations, employment and supportive service nonprofits, government agencies, faith-based groups, civil and human rights organizations and universities that focuses on the removal/reduction of systemic barriers to employment for people with criminal records in Illinois. ▪ Produced and disseminated seven policy papers and over 200,000 "Winning Strategies- Cost Effective Staffing Solutions for Illinois Employers (Money and Services for Business Growth)" brochures statewide. ▪ Conducted and participated in a public education and advocacy campaign that has resulted in the enactment of ten new state policies, two new county ordinances and city of Chicago hiring standards. ▪ Conducted nine conferences on public policy issues around employment for people with criminal records **Update:** 11th Annual CARRE Conference "Challenging Violence and Renewing Our Communities" at UIC Student Center East, was held on October 15, 2012.	**Evaluation Component?** ☐ YES ☒ NO

Certificates Implementation Advisory Group
 	
Lead Organization:
Safer Foundation
Members:
▪ Sargent Shriver National Center on Poverty Law
▪ Protestants for the Common Good
▪ Chicago Jobs Council
▪ IDES
▪ Cook County Adult Probation
▪ Cook County Clerk of the Circuit Court
▪ Cook County Public Defender
	Objectives/Activities
	▪ Implementation of revised Certificates of Relief from Disabilities and Certificates of Good Conduct.
	▪ Eliminate blanket no-hire bans and to create guidelines for public and private employers in consideration of hiring people with criminal records.
	  ▪ Reviewed IDOC's Certificates of Relief from Disabilities application form for incarcerated and paroled individuals.
	  ▪ Provided TA to help the PRB through issues of implementation of Certificate of Good Conduct including attain legal advice on implementing rules.
	  ▪ Convinced the PRB to grant actual freestanding certificates; created the certificates.
	  ▪ Opened discussion with Adult Probation to provide education on Certificates of Relief from Disabilities to probation staff, officers, and judiciary on the Certificates.
	  ▪ Identified five individual state agencies to target to develop specific employment standards and guidance for consideration of individuals with criminal records.
	
	Update: Revised Certificates of Rehabilitation (SB 1050), currently being implemented for people with criminal records, who meet the eligibility criteria. CIAG Quarterly meeting TBA.
		Evaluation Component?
		☒ YES ☐ NO
		Tracking Data:
		▪ CIAG tracks certificates data from Clerk of the Cook County Circuit Court's Office for each quarterly meeting.

State Legislation: Existing

Public Act 97-0697 CORRECTIONS-TECH (SB 2621) **Chief Senate Sponsor** Sen. Kwame Raoul **Chief House Sponsor** Rep. Barbara Flynn Curie	**Objectives/Activities** **Effective: June 22, 2012** Amends the Unified Code of Corrections. Changes the references to "good conduct credit" and "early release" on felony sentences to "sentence credit", and the references to "good conduct for meritorious service" to "sentence credit for good conduct". Provides that the Department of Corrections shall provide annual reports to the Governor and General Assembly on award, amount, holding offenses, and revocation of sentence credit for good conduct. Provides that the rules and regulations for sentence credit shall provide that the sentence credit accumulated and retained by an inmate during specific periods of time in which the inmate is engaged full-time in behavior modification programs or life skills courses and satisfactorily completes the assigned program as determined by the standards of the Department of Corrections shall be multiplied by a factor of 1.50 for program participation. Provides that the rules and regulations shall also provide that sentence credit, subject to the same offense limits and multiplier, may be provided to an inmate who was held in pre-trial detention prior to his or her current commitment to the Department of Corrections and successfully completed a full-time 60 day or longer substance abuse program, educational program, behavior modification program, or life skills course provided by a county department of corrections or county jail. Requires the county program credit to be calculated at sentencing and included in the sentencing order. Deletes prohibition on an inmate receiving additional sentence credit for time spent in an educational or training program if the inmate previously served more than one prior sentence for a felony in an adult correctional facility. Provides that the Department may also award 60 days of sentence credit to any committed person who passed the high school level Test of General Educational Development (GED) while he or she was held in pre-trial detention prior to the current commitment to the Department of Corrections. Provides that the Department's rules and regulations for revoking sentence credit, includes revocation of sentence credit for good conduct.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 97-1112 CD CORR-EARLY RELEASE NOTICE (SB 1338) **Chief Senate Sponsor** Sen. Kirk W. Dillard **Chief House Sponsors** Rep. Constance A. Howard	**Objectives/Activities** **Effective: August 28, 2012** Amends the Task Force on Inventorying Employment Restrictions Act. Extends the time period for State agencies to provide the Task Force with a report for each occupation under the agency's jurisdiction for which there are employment restrictions based on criminal records from November 1, 2011 to February 1, 2012. 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 by July 1, 2013.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 97-1113 CD COOR-GOOD CONDUCT & RELIEF (HB 5771) Chief **House Sponsor** Rep. Esther Golar Chief **Senate Sponsors** Sen. Mattie Hunter	**Objectives/Activities** **Effective: January 1, 2013** Amends the Unified Code of Corrections concerning certificates of good conduct and certificates of relief from disabilities. Provides that the certificate of relief from disabilities and a certificate of good conduct may not be issued unless the court is satisfied of certain factors based on clear and convincing evidence. Provides that the minimum period of good conduct in which the applicant must have conducted himself or herself if the most serious crime of which the individual was convicted is a misdemeanor shall be one year and if the most serious crime of which the individual was convicted is a Class 1, 2, 3, or 4 felony shall be 2 (rather than 3) years. Deletes provision that a person who has been convicted more than twice of a felony is ineligible for relief.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 97-1118 CD CORR-INITIATIVE PROBATION (SB 3349) **Chief Senate Sponsor:** Sen. Kwame Raoul **Chief House Sponsor:** Rep. Kimberly du Buclet	**Objectives/Activities** **Effective: January 1, 2013** Amends the Criminal Identification Act, the Criminal Code of 1961, the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, and the Unified Code of Corrections. Creates Offender Initiative Probation. Provides that whenever any person who has not previously been convicted of, or placed on probation or conditional discharge for, any felony offense, other than a violent offense, under the laws of this State, the laws of any other state, or the laws of the United States, pleads guilty to, or is found guilty of, a probationable felony offense of theft, retail theft, forgery, possession of a stolen motor vehicle, burglary, possession of burglary tools, possession of cannabis, possession of a controlled substance, or possession of methamphetamine, the court, with the consent of both the defendant and the State's Attorney, may, without entering a judgment, sentence the defendant to probation. Establishes the terms and conditions of the probation. Provides that upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person. Provides that upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided by law.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 97-1120 CRIM ID-SEALED RECORDS (SB 3458) **Chief Senate Sponsor:** Sen. Thomas Johnson **Chief House Sponsor:** Rep. Elizabeth Hernandez	**Objectives/Activities** **Effective: January 1, 2013** Amends the Criminal Identification Act and the Unified Code of Corrections. Provides that the Prisoner Review Board, upon a petition by a person who has been convicted of a Class 3 or 4 felony and who meets other eligibility requirements, shall hear by a panel of at least 3 members and, with the unanimous vote of 3 members, issue a certificate of eligibility recommending that the court order the sealing of all official records of the arresting authority, the circuit court clerk, and the Department of State Police concerning the arrest and conviction of the person for the Class 3 or 4 felony. Excludes from eligibility persons convicted of violent crimes, sex offenses, or DUI.	**Evaluation Component?** ☐ YES ☒ N

State Legislation: Existing

Public Act 97-1026 CRIM ID-SEALED RECORDS (SB 3433) **Chief Senate Sponsor:** Sen. Thomas Johnson **Chief House Sponsor:** Rep. Kelly Cassidy	**Objectives/Activities** **Effective: January 1, 2013** Amends the Criminal Identification Act. Provides that criminal records sealed by the Department of State Police may be disseminated by the Department only to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Strikes provision that permitted the dissemination to other parties of criminal records sealed as required by law.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 97-0874 CHILD CARE-CRIME LIC DENIAL (SB 3517) **Chief Senate Sponsor** Sen. John Mulroe **Chief House Sponsors** Rep. Kelly Burke	**Objectives/Activities** **Effective: July 31, 2012** Amends the Child Care Act of 1969. Provides that no applicant with access to confidential financial information or who submit documentation to support billing may receive a license from the Illinois Department of Children and Family Services and no person may be employed by the Department or a child care facility licensed by the Department who has been convicted of committing or attempting to commit specified offenses unless, after careful review of any relevant documents to determine whether the applicant, despite the disqualifying convictions, poses a substantial risk to State resources or clients. Sets forth guidelines to be used in making the determination. circumstances surrounding the convictions, through questioning of the applicant and accessing and reviewing official documents, the Department determines that the applicant does not pose a threat to State resources or clients.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 97-0154 CD CORR-1ST DEGREE MURDER (SB 263) **Chief Senate Sponsor** Sen. John Milner **Chief House Sponsors** Rep. Dennis Reboletti	**Objectives/Activities** **Effective: January 1, 2010** Amends the Unified Code of Corrections. Provides that the Department of State Police shall establish and maintain a Statewide First Degree Murderer Database for the purpose of identifying persons convicted of first degree murder, when the murder was committed before June 19, 1998, who have been released from a penal institution or other facility after the completion of their confinement and making that information available to the public. Provides that the information in the Database shall be the names, residence addresses, places of employment, and schools attended by these offenders, and photographs of the offenders. Provides that the Department of State Police shall require such first degree murderers to register with the Department for a period of 10 years following release.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

	Objectives/Activities	Evaluation Component?
Public Act 97-0510 EMPLOYMENT RESTRICTIONS REPORT (HB 297) **Chief House Sponsors** Rep. Constance Howard **Chief Senate Sponsor** Sen. Kwame Raoul	**Effective: Immediately** Amends the Task Force on Inventorying Employment Restrictions Act. Extends the time period for State agencies to provide the Task Force with a report for each occupation under the agency's jurisdiction for which there are employment restrictions based on criminal records from November 1, 2011 to February 1, 2012. 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 by September 1, 2012.	☐ YES ☒ NO
Public Act 97-0443 CRIM ID-SEALING RECORDS (HB 298) Chief **House Sponsor** Rep. Constance Howard **Chief Senate Sponsor** Sen. Kimberly Lightford	**Effective: Immediately** Amends the Criminal Identification Act. Adds that the court shall not order the sealing of records of an arrest which results in the petitioner being charged with a felony offense or records of a charge not initiated by arrest for a felony offense unless (i) the charge results in acquittal, dismissal, or the petitioner's release without conviction or (ii) the charge results in a conviction, but the conviction was reversed or vacated.	☐ YES ☒ NO
Public Act 97-0660 PREGNANT PRISONER-RESTRAINTs (HB 1958) Chief **House Sponsor** Rep. Robyn Gabel **Chief Senate Sponsor** Sen. Toi Hutchinson	**Effective: Immediately** Amends the Counties Code, the Unified Code of Corrections, and the County Jail Act. Provides that a county department of corrections and the Illinois Department of Corrections shall not apply security restraints to a prisoner that has been determined by a qualified medical professional to be pregnant and is known by the county department of corrections or the Illinois Department of Corrections to be pregnant or in postpartum recovery, unless the corrections official makes an individualized determination that the prisoner presents a substantial flight risk or some other extraordinary circumstance that dictates security restraints be used to ensure the safety and security of the prisoner, her child or unborn child, the staff of the Illinois Department of Corrections, a county department of corrections, or the medical facility, other prisoners, or the public. Provides that leg irons, shackles, or waist shackles shall not be used on any pregnant or postpartum prisoner regardless of security classification	☐ YES ☒ NO

State Legislation: Existing

Public Act 97-0678 DRUG OVERDOSE-IMMUNITY (SB 1701) **Chief Senate Sponsor** Sen. Ira Silverstein **Chief House Sponsor** Rep. Kelly Cassidy	**Objectives/Activities** **Effective: Immediately** Amends the Illinois Controlled Substances Act and the Methamphetamine Control and Community Protection Act. Provides that a person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance, a controlled substance analog, or Class 3 felony methamphetamine if evidence for the possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance. Provides that a person who is experiencing an overdose shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance, or a controlled substance analog, or in the case of methamphetamine Class 3 felony possession if evidence for the possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance. Provides that the action of seeking or obtaining emergency medical assistance for an overdose may be used as a mitigating factor in a criminal prosecution for Class 3 felony or higher possession, manufacture or delivery of a controlled, counterfeit, or look-alike substance or a controlled substance analog, or in the case of methamphetamine Class 2 felony or higher possession, manufacture or delivery of methamphetamine. Effective immediately.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 96-0852 CRIMINAL LAW-TECH (SB 1050) Chief **Senate Sponsor** Sen. Kwame Raoul Chief **House Sponsors** Rep. Barbara Flynn Currie	**Objectives/Activities** **Effective: January 1, 2010** Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Provides that within 180 days after the effective date of the amendatory Act, the Department of Financial and Professional Regulation shall promulgate rules which permit a person with a criminal record, who seeks a license or certificate, to apply to the Department for a non-binding, advisory opinion to be provided by the Board or body with the authority to issue the license or certificate as to whether his or her criminal record would bar the individual from the licensure or certification sought, should the individual meet all other licensure requirements including, but not limited to, the successful completion of the relevant examinations. Amends the Unified Code of Corrections relating to relief from disabilities automatically imposed by law. Provides that the court may grant relief from forfeitures. Defines "eligible offender" for the purposes of relief from disabilities and forfeitures as a person who has been convicted of a crime that does not include an offense or attempted offense that would subject the person to registration under the Sex Offender Registration Act, the Arsonist Registration Act, or the Child Murderer and Violent Offender Against Youth Registration Act Defines eligible offender as a person who has not been convicted more than twice of a felony. Provides that "eligible offender" does not include a person who has been convicted of committing or attempting to commit a Class X felony other than under the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or Cannabis Control Act; or a forcible felony, Defines "forcible felony". Provides that a certificate of good conduct may be granted to relieve an eligible offender of any employment bar. Provides that the certificate may be limited to one or more enumerated disabilities or bars or may relieve the individual of all disabilities and bars. Provides that a certificate of good conduct does not limit the employer from accessing criminal background information; nor does it hide, alter, or expunge the record.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 96-1110 CD CORR-EARLY RELEASE (SB 3411) Chief **Senate Sponsor** Sen. Kirk Dillard Chief **House Sponsors** Rep. Robert F. Flider	**Objectives/Activities** **Effective: July 19, 2010** Amends the Unified Code of Corrections. Provides that the Department of Corrections must also make identification information and a recent photo of the inmate being released accessible on the Internet by means of a hyperlink labeled "Community Notification of Inmate Early Release" on the Department's World Wide Web homepage. Provides that the identification information shall include the inmate's: name, any known alias, date of birth, physical characteristics, residence address, commitment offense and county where conviction was imposed. Provides that the identification information shall be placed on the website within 3 days of the inmate's release and the information may not be removed until either: completion of the first year of mandatory supervised release or return of the inmate to custody of the Department. Effective immediately.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 96-0409 CRIM ID-EXPUNGEMENT (HB 3961) **Chief House Sponsors:** Rep. Constance A. Howard Rep. LaShawn K. Ford **Chief Senate Sponsors:** Sen. Kimberly A. Lightford Sen. Jacqueline Y. Collins Sen. John J. Millner	**Objectives/Activities** **Effective: January 1, 2010** Amends the Criminal Identification Act relating to expungement. Changes the procedures relating to the expungement of adult criminal records and the records of minors prosecuted as adults. Establishes time limits and procedures for filing petitions to expunge. Excludes certain enumerated offenses from expungement. Provides for the sealing of certain arrest and court records. Provides that the court may, upon conviction for a subsequent felony offense, order the unsealing of prior felony conviction records previously ordered sealed by the court. Provides for certain reports to be submitted annually by the Department of State Police to the Governor, the Attorney General, the Office of the State Appellate Defender, and both houses of the General Assembly concerning expungements and the sealing of records for the preceding fiscal year. Amends the Unified Code of Corrections and the Illinois Human Rights Act by changing cross-references.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 96-0656 DCEO-LOANS/EX-OFFENDERS (HB 0436) **Chief House Sponsor:** Rep. LaShawn Ford **Chief Senate Sponsor:** Sen. William Delgado	**Objectives/Activities** **Effective: January 1, 2010** Amends the Department of Economic Opportunity Law of the Civil Administrative Code of Illinois. Creates a loan program for ex-offenders to plan and start their own businesses. Defines terms and sets requirements for loans. Amends the State Finance Act to create the Ex-Offender Fund.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 96-0565 HLTH CARE WRKR BKGRND CHK ACT (HB 762) **Chief House Sponsor:** Rep. Constance A. Howard **Chief Senate Sponsors:** Sen. Donne E. Trotter	**Objectives/Activities** **Effective: 8/18/2009** Amends the Health Care Worker Background Check Act. Removes the requirement that a person listed on the Health Care Worker Registry who requests a waiver of the prohibition against employment must show that he or she has paid all outstanding fines. Effective immediately.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 96-0711 CRIMINAL LAW - TECH (SB 1230) **Chief Senate Sponsors:** Sen. Kirk W. Dillard **Chief House Sponsor:** Rep. Arthur L. Turner	**Objectives/Activities** **Effective: 8/25/2009** Amends the Unified Code of Corrections. Creates the Illinois Sentencing Policy Advisory Council under the jurisdiction of the Governor to review sentencing policies and practices and examine how these policies and practices impact the criminal justice system as a whole in the State of Illinois. Provides that the Council shall report in writing annually to the General Assembly and the Governor. Repeals provisions on December 31, 2012. Effective immediately.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 96-0761 CAPITAL CRIMES LIT-EXPENSES (SB 1289) **Chief Senate Sponsors:** Sen. Kwame Raoul **Chief House Sponsor:** Rep. Will Burns	**Objectives/Activities** **Effective: January 1, 2010** Creates the Illinois Crime Reduction Act of 2009. Provides that the Parole Division of the Department of Corrections and the Prisoner Review Board shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool, result in at least 25% of supervised individuals being supervised in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of supervised individuals being supervised in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of supervised individuals being supervised in accordance with evidence-based practices. Provides that the Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to develop plans for the adoption, validation, and utilization of such an assessment tool. Provides that the Department of Human Services shall provide administrative support for the Task Force. Provides that the Secretary of Human Services and the Director of Corrections shall convene and act as co-chairs of an oversight board to oversee the Adult Redeploy Program.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 95-0970 COURT OF CLAIMS-PRISONERS (HB 230) **Chief House Sponsor:** Rep. Mary Flowers **Chief Senate Sponsor:** Sen. William Delgado	**Objectives/Activities** **Effective: September 25, 2008** Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. Provides that the Department of Commerce and Economic Opportunity shall establish an individualized job training and continuing education program for each person who has been discharged from a prison of this State; and who has been wrongfully accused of a crime for which he or she was imprisoned; and whom either a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned or the person received a pardon.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 95-0995 RACIAL IMPACT NOTE (SB 2476) **Chief Senate Sponsors** Sen. Mattie Hunter **Chief House Sponsors** Rep. Arthur L. Turner	**Objectives/Activities** **Effective: June 1, 2009** Creates the Racial Impact Note Act. Provides that every bill which amends criminal offenses, criminal procedure, or sentencing provisions under the Cannabis Control Act, Illinois Controlled Substances Act, or Methamphetamine Control and Community Protection Act, shall have prepared for it, by the Illinois Criminal Justice Information Authority, prior to second reading in the house of introduction a brief explanatory statement or note which shall include a reliable estimate of the proportional racial makeup of the population likely to be impacted by the bill.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 95-0539 CD CORR-GOOD CONDUCT CREDIT (SB 1391) **Chief House Sponsor:** Rep. Constance A. Howard **Chief Senate Sponsor:** Sen. Mattie Hunter	**Objectives/Activities** **Effective: January 1, 2008** Amends the Unified Code of Corrections, provides that 90 days of early release from parole shall be awarded to any parolee who passes the high school level Test of General Educational Development (GED) while the parolee is on parole. Provides that the early release from parole awarded shall be in addition to, and shall not be affected by, the award of good conduct under any other provision, but shall not be pursuant to the guidelines and restrictions set forth for prisoners engaged in full-time educational programs provided by the Department of Corrections. Provides that the early release from parole shall be available only to parolees who have not yet previously earned a high school diploma or a GED.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 95-0160 CRIMINAL LAW-TECH (HB 2734) **Chief House Sponsor:** Rep. Marlow Colvin **Chief Senate Sponsor:** Sen. John J. Cullerton	**Objectives/Activities** **Effective: January 1, 2008** Creates the Drug School Act (Smart Act). Provides that each State's Attorney may establish a drug school to provide an alternative to prosecution by identifying drug-involved individuals for the purpose of intervening with their drug use before their criminal involvement becomes severe. Provides that the State's Attorney, alone, in each county where a drug school is established shall have the authority to determine which individuals, who would otherwise be prosecuted under the relevant provisions of Illinois law, may be eligible to participate in the drug school in lieu of prosecution. Provides that a defendant may be admitted into drug school, only upon the agreement of the prosecutor and the defendant. Establishes a funding mechanism for the program.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 95-0255 CRIM CD-PROSTITUTION PROBATION (SB 75) **Senate Sponsor** Sen. Jacqueline Y. Collins **Chief House Sponsor:** Rep. Robert S. Molaro	**Objectives/Activities:** **Effective: August 17, 2007** Amends the Criminal Code of 1961. Provides that when a person who has not previously been convicted of or placed on probation for felony prostitution is guilty of felony prostitution, the court, without entering a judgment and with the consent of the person, may sentence the person to probation. Provides that when a person is placed on probation for felony prostitution, the court shall order a period of probation of 24 months and defer further proceedings until the conclusion of the period or until the filing of a petition alleging violation of probation. Provides that the conditions of probation shall be that the person: not violate any criminal statute of any jurisdiction; refrain from possessing a firearm or other dangerous weapon; submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and perform no less than 30 hours of community service if community service is available in the jurisdiction and is funded and approved by the county board. Provides that the court may impose other conditions of probation. Provides that upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings. Provides that there may be only one discharge and dismissal under this provision. Provides that if a person is convicted of prostitution within 5 years after a discharge and dismissal under this provision, the discharge and dismissal shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 95-0658 SEX OFFENDER REG-JUVENILE (SB 121) **Senate Sponsors** Sen. Kwame Raoul **Chief House Sponsor:** Rep. James Brosnahan	**Objectives/Activities:** **Effective: October 11, 2007** Amends the Sex Offender Registration Act. Eliminates provision that a person who has been adjudicated a juvenile delinquent for an act which, if committed by an adult, would be a sex offense shall register as an adult sex offender within 10 days after attaining 17 years of age. Provides that in all cases involving an adjudicated juvenile delinquent who meets the definition of sex offender under the Act, the court shall determine at the sentencing hearing whether to order registration, and if so, the duration of the registration. Establishes factors that the court must consider in making such a determination.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 94-1032 CRIMINAL LAW-TECH (SB1145) **Chief Senate Sponsor:** Sen. John J. Cullerton **Chief House Sponsor:** Rep. James Brosnahan	**Objectives/Activities** **Effective: January 1, 2007** Amends the Probation and Probation Officers Act relating to the Redeploy Illinois Program. The purpose of this Section is to encourage the deinstitutionalization of juvenile offenders by establishing pilot projects in counties or groups of counties that reallocate State funds from juvenile correctional confinement to local jurisdictions, which will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would be incarcerated if those local services and sanctions did not exist. Provides that for any county or group of counties with a decrease of juvenile commitments of at least 25%, based on the average reductions of the prior 3 years, which are chosen to participate or continue as pilot sites, the Redeploy Illinois Oversight Board has the authority to reduce the required percentage of future commitments to achieve the purpose of the Program.	**Evaluation Component?** ☒ YES ☐ NO

State Legislation: Existing

Public Act 94-0971 DHFS-CHILD SUPPORT-COMPROMISE (HB4788) **Chief House Sponsor:** Rep. William Davis **Chief Senate Sponsor:** Sen. Kimberly A. Lightford	**Objectives/Activities** **Effective: January 1, 2007** Amends the Illinois Public Aid Code, to require that a rule be adopted by the Department of Healthcare and Family Services in connection with compromise of debt owed to the State in the form of assigned child support arrearages shall provide that assigned obligations shall be compromised only in exchange for regular payment of support owed to the family and shall require that obligors considered for debt compromise demonstrate inability to pay during the time the assigned obligation accumulated. Provides that the rule shall provide for nullification of any compromise agreement and the prohibition of any future compromise agreement if the obligor fails to adhere to the compromise agreement. Provides that the rule shall establish debt compromise criteria calculated to maximize positive effects on families and the level of federal incentive payments payable to the State under the Social Security Act.	**Evaluation Component?** ☒ YES ☐ NO **Tracking Data:** Annual report to the General Assembly.
Public Act 94-1067 EMPLOYMENT-TECH (SB1279) **Chief Senate Sponsor:** Sen. Terry Link **Chief House Sponsor:** Rep. Art Turner	**Objectives/Activities** **Effective: August 1, 2006** Amends the Illinois Procurement Code to require that each notice of a contract contain a statement to encourage prospective vendors to hire qualified veterans or residents discharged from any Illinois adult correctional center. Provides that a chief procurement officer may encourage prospective vendors to consider hiring qualified veterans or residents discharged from any Illinois adult correctional center. Requires the Department of Central Management Services to submit an annual report concerning the hiring of qualified veterans or residents discharged from any Illinois adult correctional centers. Amends the Illinois Income Tax Act to create income tax credits for wages paid to eligible offenders and qualified veterans. Amends the Unified Code of Corrections to empower the Department of Corrections to provide a pre-release job preparation program for inmates at Illinois adult correctional centers. Includes nine more Acts for which a Certificate of Relief from Disabilities may be issued for a license or certification, bringing the total number of licensure categories up to 27 from the previous 18. In an Article concerning Certificates of Relief from Disabilities and Certificates of Good Conduct, provides that the definition of "eligible offender" include persons convicted not more than twice (previously not more than once) of a felony.	**Evaluation Component?** ☒ YES ☐ NO **Tracking Data:** Annual report to the General Assembly.
Public Act 94-0744 CD CORR-PRISONER ID CARD (SB 2320) **Senate Sponsor:** Sen. Donne E. Trotter **House Sponsor:** Rep. Connie A. Howard	**Objectives/Activities** **Effective: May 8, 2006** Amends the Unified Code of Corrections. Provides that an identification card issued by the Department of Corrections to a committed person on parole, mandatory supervised release, final discharge, or pardon shall be valid for a period of time not to exceed 60 (rather than 30) calendar days from the date the card is issued.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 94-0665 HEALTH WRKR-LONG TERM CARE EMP (HB 2531) **Chief House Sponsor:** Rep: Kevin Joyce **Chief Senate Sponsor:** Sen. Edward D. Maloney	**Objectives/Activities** **Effective: January 1, 2006** Amends the Health Care Worker Background Check Act and provides that a long-term care facility must initiate, or have initiated on its behalf, a UCIA criminal history record check for all employees with duties that involve or may involve contact with residents or access to their living quarters or their financial, medical, or personal records. ▪ A health care employer may conditionally employ an applicant for up to 3 months pending the results of a UCIA criminal history record check. ▪ An individual shall not be employed from the time that an employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver. ▪ If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual if the individual presents convincing evidence that the non-fingerprint check is invalid.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 94-0709 MED SCHOOL – BACKGROUND CHECK (HB 3801) **Chief House Sponsor:** Rep: Robin Kelly	**Objectives/Activities** **Effective: December 5, 2005** Provides that an applicant to a medical school must submit to, and the school must require, a criminal background check for felony convictions by the State Police and the Federal Bureau of Investigation as part of the admissions application process. ▪ Provides that the State Police shall charge a fee to the school for conducting the criminal background check. ▪ Provides that the medical school may, in turn, impose a fee on applicants. ▪ Provides that a felony conviction shall not preclude an applicant from gaining admission to any medical school located in the State, but shall be used as a factor in determining admission. ▪ Provides that each medical school located in the State must require a criminal background check for violent felony convictions and any adjudication of an applicant as a sex offender, rather than a background check for felony conviction.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 94-0574 CRIMINAL LAW-TECH (SB 0283) **Chief Senate Sponsor:** Sen. John J. Cullerton **Chief House Sponsor:** Rep Annazette Collins	**Objectives/Activities** **Effective: August 12, 2005** Amends the Unified Code of Corrections, and makes a technical change in a Section concerning the organization of the Department of Corrections by providing additional leeway for judges to determine whether or not to try youth involved in drug cases as adults. Offers individualized review of the decision to try youth in drug cases in adult courts in Illinois. By implementing a clear set of factors that the courts must consider before transferring a minor from juvenile to adult court for prosecution, the law increases the likelihood that only youth charged with serious drug offenses will end up in adult court.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: Existing

Public Act 94-0128 GOOD CONDUCT CREDIT (HB 0611) **Chief House Sponsor:** Rep. Constance A. Howard **Chief Senate Sponsor:** Sen. Jacqueline Y. Collins	**Objectives/Activities** **Effective: July 7, 2005** Provides that the rules and regulations for the early release of a prisoner on account of good conduct shall also provide that an additional 60 days of good conduct credit shall be awarded to any (eligible) prisoner who earns high school diploma/passes the GED and receives a GED certificate while incarcerated. Provides that the Department of Corrections shall develop and establish a program designed to increase the number of committed persons enrolled in programs to obtain a high school diploma/pass the GED.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 93-1084 CRIM ID-EXPUNGEMENT-TECH (SB 3007) **Chief Senate Sponsor:** Sen. John J. Cullerton **Chief House Sponsor:** Rep. Constance A. Howard	**Objectives/Activities** **Effective: June 1, 2005** ▪ Authorizes the sealing of criminal records of adults and of minors prosecuted as adults upon acquittal, or being released without being convicted, or convicted of offense(s) that were reversed, or three years after completing supervision for a conviction, or four years after the last conviction. ▪ Sealable offenses include select municipal ordinance violations and misdemeanors and Class 4 felony violation for prostitution, a misdemeanor or Class 4 felony possession violation of the Illinois Controlled Substances Act or the Cannabis Control Act. ▪ Directs the Illinois Department of Corrections, in cooperation with the Illinois Department of Employment Security, to conduct a blind study utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211 related to their employment history.	**Evaluation Component?** ☒ YES ☐ NO **Tracking Data:** Study due 9/1/06.
Public Act 93-0912 JUV CT-EXPUNGEMENT (HB 4566) **Chief House Sponsor:** Rep. Lovana Jones **Chief Senate Sponsor:** Sen. Jacqueline Y. Collins	**Objectives/Activities** **Effective: August 12, 2004** Authorizes expungement of minor arrest/conviction records when the minor attains the age of 17, or when all juvenile court proceedings have been terminated, or if a minor is found not delinquent, or if a minor's order of supervision is successfully terminated; or if a minor is adjudicated for an offense that would be a Class B or C misdemeanor, or a business or petty offense if committed by an adult; or if a minor has incidents occurring before his/her 17th birthday that have not resulted in proceedings in criminal court, or adjudications in juvenile court for offenses (first degree murder/sex) that would be felonies if committed by an adult.	**Evaluation Component?** ☐ YES ☒ NO
Public Act 93-0210 EXPUNGEMENT (SB 0423) **Chief Senate Sponsor:** Sen. Kimberly A. Lightford **Chief Sponsor:** Rep. Larry McKeon	**Objectives/Activities** **Effective: January 1, 2004** Authorizes the expungement of criminal records of individuals found factually innocent. Directs the State Appellate Defender to establish, maintain, and carry out an Expungement Program to provide information to persons eligible to have their arrest or criminal history record information ordered expunged, sealed, or impounded.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: In Committee

HB 1210 STATE EMPLOYMENT APPLICATION **Chief House Sponsor:** Rep. LaShawn Ford	Creates the State Employment Application Act. Provides that an application for State employment may not contain any question as to whether the applicant was convicted of or placed on supervision for a non-violent criminal offense, but must contain a question as to whether the applicant for State employment has ever been convicted of a violent offense that is classified as a felony. Provides that nothing in the Act shall be construed to prohibit a State agency from conducting a criminal background check of an applicant for State employment. Provides that if a federal or State law disqualifies a person convicted of certain offenses from holding a position, an application for that position may inquire as to whether the applicant has been convicted of a disqualifying offense. Provides that nothing in the Act prohibits a decision to refuse to hire on the basis that the applicant has been convicted of a criminal offense. Effective immediately. **Last Action:** 3/30/12, Re-referred to Rules Committee	**Evaluation Component?** ☐ YES ☒ NO
HB 3233 CD CORR-PAROLE-REHEARING **Chief House Sponsor:** Rep. Edward Acevedo	**Objectives/Activities** Amends the Unified Code of Corrections. Provides that the Prisoner Review Board may, after denying parole, schedule a rehearing no later than 5 (rather than 3) years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. **Last Action:** 3/9/12, Re-referred to Rules Committee.	**Evaluation Component?** ☐ YES ☒ NO
HB 4541 DHS-HOME SRVICES-RESTRICTIONS **Chief House Sponsor:** Joe Sosnowski	**Objectives/Activities** Amends the Disabled Persons Rehabilitation Act. Provides that a person is not eligible for employment as a personal care attendant or personal assistant under the Department of Human Services' Home Services Program if that person has been convicted of a felony, has been arrested for a criminal offense, or is an immediate family member of the individual receiving services under the Program. **Last Action:** 4/7/12, Re-referred to Assignments	**Evaluation Component?** ☐ YES ☒ NO
HB 4592 FOIA-DEPT OF CORRECTIONS **Chief House Sponsor:** Rep. William Cunningham	**Objectives/Activities** Amends the Freedom of Information Act. Exempts from the Act's copying and disclosure requirements records requested by persons committed to the Department of Corrections if those materials (i) are available in the library of the correctional facility where the inmate is confined, (ii) include records from staff members' personnel files, staff rosters, or other staffing assignment information, or (iii) are available through an administrative request to the Department of Corrections. Effective immediately **Last Action**: 7/13/12, Public Act 97-0783	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: In Committee

HB 5487 DCFS-CUSTODY-VISITATION-FELON **Chief House Sponsor:** Rep. Richard Morthland	**Objectives/Activities** Amends the Unified Code of Corrections and the Illinois Marriage and Dissolution of Marriage Act. Provides that whenever the Department of Corrections is to release any inmate who has been convicted of a felony, earlier than it otherwise would because of a grant of good conduct credit, the Department shall give written notice of the impending release not less than 120 days prior to the date of the release to the victim of the offense for which the inmate was convicted and the victim's family members. Provides that a court may not award either sole custody or joint custody to a parent who has been convicted of a felony unless certain criteria are first met, including that (i) a psychological examination of the parent has been conducted by a qualified individual, and that individual is of the opinion that the parent is a fit person to raise and care for the child and (ii) the child or the child's legal guardian has consented to an award of custody to the parent. Provides that a court may not award unsupervised visitation to a parent who has been convicted of a felony unless similar criteria are first met. Provides for immediate suspension of a parent's unsupervised visitation if the child alleges that he or she has been a victim of abuse or sexual molestation perpetrated by a person in the home where the unsupervised visitation has taken place. **Last Action:** 3/9/12, Re-referred to Rules Committee	**Evaluation Component?** ☐ YES ☒ NO
HB 5538 CD CORR-PREGNANT PRISONER **Chief House Sponsor:** Rep. Robyn Gabel	**Objectives/Activities** Amends the Unified Code of Corrections. Provides that the Department of Corrections or the Department of Juvenile Justice shall not apply security restraints to a committed person that has been determined by a qualified medical professional to be pregnant and is known to be pregnant by the Department or in postpartum recovery, which is the entire period a woman is in the medical facility after birth, unless the corrections official makes an individualized determination that the pregnant committed person presents a substantial flight risk or some other extraordinary circumstance that dictates security restraints be used to ensure the safety and security of the pregnant committed person, her child or unborn child, the staff of the Department or medical facility, other committed persons, or the public. Provides that upon discharge from a medical facility, postpartum committed persons shall be restrained only with handcuffs in front of the body during transport to the Department facility. Provides that the corrections official shall immediately remove all security restraints upon written or oral request by medical personnel. Provides that leg irons, shackles, or waist shackles shall not be used on a pregnant or postpartum committed person regardless of security classification. Makes other changes. **Last Action:** 3/9/12, Re-referred to Rules Committee.	**Evaluation Component?** ☐ YES ☒ NO

State Legislation: In Committee

HB 5723 CRIM ID - FELONY SEALING **Chief House Sponsor:** Rep. Lashawn Ford	**Objectives/Activities** Amends the Criminal Identification Act. Allows a person to petition the court and the court to order the sealing of Class 2, 3, and 4 felony conviction records 4 years after termination of the person's last sentence, unless the offense is a: (1) sex offense; (2) DUI; (3) reckless driving; (4) violation of an order of protection; (5) dog fighting; (6) crime of violence as defined in the Crime Victim Compensation Act; or (7) an offense that that requires registration under the Sex Offender Registration Act. Current law limits the sealing of felony conviction records to Class 4 felony convictions for possession of cannabis, possession of a controlled substance, Methamphetamine Precursor Control Act, Steroid Control Act, and prostitution. Requires a person petitioning to seal a drug offense to pass a drug test within the 30 days preceding the filing of the petition to seal. **Last Action:** 3/30/12, Re-referred to Rules Committee	**Evaluation Component?** ☐ YES ☒ NO
SB 3488 HUMAN RIGHTS-HOUSING ARRESTS **Senate Sponsors** Sen. Kwame Raoul	**Objectives/Activities** Amends the Real Estate Transactions Article of the Illinois Human Rights Act. Provides that it is a civil rights violation to refuse to sell, rent, or otherwise make unavailable or deny, or to alter the terms, conditions, or privileges of sale or rental, of a housing accommodation or dwelling to any buyer or renter due to the fact of an arrest or criminal history record information ordered expunged, sealed, or impounded under the Criminal Identification Act. Effective immediately. **Last Action:** 3/9/12, Re-referred to Assignments.	**Evaluation Component?** ☐ YES ☒ NO

Existing Federal Legislation

Public Law No: 111-1220 **(S. 1789)** Fair Sentencing Act of 2010 **Sponsor:** Sen. Richard Durbin [IL] Related Bill: **H.R. 265** **Sponsors:** Rep. Sheila Jackson-Lee [TX-18]	**Summary** **Effective: August 3, 2010** Amends the Controlled Substances Act and the Controlled Substances Import and Export Act to: (1) increase the amount of a controlled substance or mixture containing a cocaine base (i.e., crack cocaine) required for the imposition of mandatory minimum prison terms for trafficking; and (2) increase monetary penalties for drug trafficking and for the importation and exportation of controlled substances. Eliminates the five-year mandatory minimum prison term for first-time possession of crack cocaine. Directs the United States Sentencing Commission to: (1) review and amend its sentencing guidelines to increase sentences for defendants convicted of using violence during a drug trafficking offense; (2) incorporate aggravating and mitigating factors in its guidelines for drug trafficking offenses; (3) promulgate guidelines, policy statements, or amendments required by this Act as soon as practicable, but not later than 90 days after the enactment of this Act; and (4) study and report to Congress on the impact of changes in sentencing law under this Act. Directs the Comptroller General, within one year after the enactment of this Act, to report to Congress analyzing the effectiveness of drug court programs under the Omnibus Crime Control and Safe Streets Act of 1968.	**Evaluation Component?** ☒ YES ☐ NO
Public Law No. 110-199 **(H.R. 1593)** Second Chance Act **Sponsors:** Rep. Danny K. Davis [IL-7] Related Bill: **S 1060** **Sponsors:** Sen. Joseph Biden (DE)	**Summary** **Effective: April 9, 2008** Directs the U.S. Attorney General to award grants for: (1) state and local reentry courts; (2) Comprehensive and Continuous Offender Reentry Task Forces; (3) pharmacological drug treatment services to incarcerated offenders; (4) technology career training for offenders; and (5) mentoring services for reintegrating offenders into the community. Amends the Higher Education Amendments of 1998, to require the Secretary of Education to establish a program for education and employment counseling for youth offenders. Authorizes the Attorney General to award grants for: (1) the establishment of a National Adult and Juvenile Offender Reentry Resource Center; (2) drug treatment programs as an alternative to imprisonment; (3) evaluation of methods to improve academic and vocational education for incarcerated offenders; (4) demonstration programs to reduce the use of alcohol and other drugs in long-term substance abusers; (5) incentive grants to improve drug treatment to offenders in prisons, jails, and juvenile facilities; (6) pharmacological drug treatment services to incarcerated offenders; (7) prison-based family treatment programs for incarcerated parents of minor children; and (8) a study of parole or post-incarceration supervision violations and revocations.	**Evaluation Component?** ☐ YES ☒ NO

Existing Federal Legislation

Public Law No: 109-171 (S. 1932) **Sponsor:** Sen. Judd Gregg [NH]	**Summary** **Effective: July 1, 2006** Modifies the ban on student federal financial aid for people convicted of drug crimes to enable people in recovery from drug and alcohol addiction and others with a past drug conviction to obtain an education. Under the new law, students who were convicted of drug crimes prior to their enrollment and application for federal financial aid will be eligible for aid and will no longer be subject to a ban that delays or denies federal financial assistance. The federal financial aid ban will only apply to students who are convicted of a drug offense while they are in school and receiving federal financial assistance.	**Evaluation Component?** ☐ YES ☒ NO
Public Law No: 109-162 (H.R. 3402) **Sponsor:** Rep. James F. Sensenbrenner, Jr. [WI-5]	**Summary** **Effective: January 5, 2006** Violence Against Women Act of 2005. Amends the Violence Against Women Act (VAWA) of 1994, VAWA of 2000 (VAWA-2000), the Omnibus Crime Control and Safe Streets Act of 1968 (OCCSSA), the Public Health Service Act (PHSA), the Social Security Act (SSA), the Higher Education Amendments of 1998, the Victims of Trafficking and Violence Protection Act of 2000, the Safe Homes for Women Act of 1994, the United States Housing Act of 1937, the Cranston-Gonzalez National Affordable Housing Act, the McKinney-Vento Homeless Assistance Act, the Battered Immigrant Women Protection Act of 2000, and the Immigration and Nationality Act (INA) to reauthorize, revise, and establish various programs for prevention and treatment of violence against women, including domestic violence, child abuse, dating violence, sexual assault, and stalking (violence).	**Evaluation Component?** ☐ YES ☒ NO

Federal Legislation: Introduced in 112th Congress		
H.R. 223 **Sponsor:** Rep. Sheila Jackson-Lee (TX - 18)	**Summary** Federal Prison Bureau Nonviolent Offender Relief Act of 2011 - Amends the federal criminal code to direct the Bureau of Prisons, pursuant to a good time policy, to release a prisoner who has served one half or more of his or her term of imprisonment if that prisoner: (1) has attained age 45; (2) has never been convicted of a crime of violence; and (3) has not engaged in any violation, involving violent conduct, of institutional disciplinary regulations. **Latest Major Action:** 3/20/11; Referred to House subcommittee. Status: Referred to the Subcommittee on Crime, Terrorism, and Homeland Security. No change as of 10/1/12.	**Evaluation Component?** ☐ YES ☒ NO
H.R. 377 **Sponsor:** Rep. Barbara Lee (CA - 9)	**Summary** Food Assistance to Improve Reintegration Act of 2011 - Amends the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to repeal the denial of Supplemental Nutrition Assistance Program (SNAP, formerly food stamps) eligibility for a person convicted of a felony which has as an element the possession, use, or distribution of a controlled substance. **Latest Major Action:** 3/3/11; Referred to House Subcommittee on Nutrition and Horticulture. No change as of 10/1/12.	**Evaluation Component?** ☐ YES ☒ NO
H.R. 1771 **Sponsor:** Rep. Steve Cohen (TN - 9)	**Summary** Justice Integrity Act of 2011 - Requires the Attorney General to: (1) establish a pilot program in 10 U.S. districts to promote fairness and the perception of fairness in the federal criminal justice system and to determine whether legislation is required, and (2) designate a U.S. attorney in each of the districts to implement a plan for carrying out such pilot program. Requires each U.S. attorney designated to implement a pilot program to appoint an advisory group consisting of judges, prosecutors, defense attorneys, and other individuals and entities that play an important role in the criminal justice system. Requires each advisory group to: (1) collect and analyze data on the race and ethnicity of defendants at each stage of a criminal proceeding, (2) seek to determine causes of racial and ethnic disparities in the criminal justice process, and (3) submit to the U.S. attorney a report and proposed plan for addressing such disparities. Requires each U.S. attorney to annually evaluate the efficacy of a plan submitted by an advisory group. Requires the Attorney General to: (1) prepare a comprehensive report on all advisory group plans and submit such report and plans to Congress, and (2) exercise continuing oversight of the criminal justice system to reduce unwarranted racial and ethnic disparities and improve such system. **Last Major Action:** 7/11/2011; Referred to House Sub-committee on the Constitution. No change as of 10/1/12.	**Evaluation Component?** ☐ YES ☒ NO

Federal Legislation: Introduced in 112th Congress

H. R. 1913 **Sponsor:** Rep. Steve Cohen (TN - 9)	**Summary** Byrne/JAG Program Accountability Act - Amends the Omnibus Crime Control and Safe Streets Act of 1968 to require states and local governments receiving grants under the Edward Byrne Memorial Justice Assistance Grant Program to implement policy, practice, and system improvement strategies to identify and reduce racial and ethnic disparities among individuals who come into contact with or are under the supervision of the criminal justice system, without establishing or requiring numerical standards or quotas. **Last Major Action:** 7/11/2011; Referred to House Sub-committee on Crime, Terrorism & Homeland Security. No change as of 10/1/12.	**Evaluation Component?** ☐ YES ☒ NO
S. 306 **Sponsor:** Sen. Jim Webb (VA)	**Summary** National Criminal Justice Commission Act of 2011 - Establishes the National Criminal Justice Commission to undertake a comprehensive review of all areas of the criminal justice system, including federal, state, local, and tribal governments' criminal justice costs, practices, and policies. Directs the Commission to: (1) make findings regarding its review and recommendations for changes in oversight, policies, practices, and laws designed to prevent, deter, and reduce crime and violence, improve cost-effectiveness, and ensure the interests of justice; (2) conduct public hearings in various locations around the United States; (3) consult with federal, state, local, and tribal government and nongovernmental leaders and other stakeholders in the criminal justice system, including the U.S. Sentencing Commission; and (4) submit a final report, within 18 months after its formation, to Congress, the President, and state, local, and tribal governments, and make such report available to the public. **Last Major Action:** 10/19/2011, Defeated in the U.S. Senate, 57 yes to 43 no; it needed 60 votes to pass.	**Evaluation Component?** ☐ YES ☒ NO

Federal Legislation: Introduced in 112th Congress

S. 1231 **Sponsors:** Sen. Patrick Leahy (VT) Sen. Rob Portman (OH)	**Summary** Establishes the Second Chance Reauthorization Act of 2011 - (Sec. 2) Amends the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Second Chance Act of 2007 (the Act), to revise and reauthorize through FY2016 grant programs for: (1) state and local adult and juvenile offender reentry projects; (2) effective alternatives to incarceration; (3) family-based substance abuse treatment; (4) evaluation and improvement of educational methods at prisons, jails, and juvenile facilities; (5) technology careers training; (6) offender reentry substance abuse and criminal justice collaboration; and (7) nonprofit organization mentoring programs. Sets forth requirements for planning and implementation grants for state and local adult and juvenile offender reentry projects. Directs the Attorney General to give priority to grant applications that best: (1) focus initiative on geographic areas with a disproportionate population of offenders released from prisons, jails, and juvenile facilities; (2) include input from nonprofit organizations; (3) demonstrate effective case assessment and management abilities in order to provide comprehensive and continuous reentry; (4) review the process by which the applicant adjudicates violations of parole, probation, or supervision following release; (5) provide for an independent evaluation of reentry programs that include random assignment and controlled studies to determine their effectiveness; (6) target high-risk offenders for reentry programs through validated assessment tools; and (7) target offenders with histories of homelessness, substance abuse, or mental illness. **Last Major Action:** 7/21/11; Placed on Senate Legislative Calendar under General Orders. Calendar No. 108. No Change as of 10/1/12.	**Evaluation Component?** ☐ YES ☒ NO

Federal/National Initiatives

Second Chance Act

Signed into law on April 9, 2008, the Second Chance Act (P.L. 110-199) was designed to improve outcomes for people returning to communities from prisons and jails. This first-of-its-kind legislation authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing; family programming, mentoring, victims support, and other services that can help reduce recidivism. In fiscal year 2010, $114 million was appropriated for prisoner reentry programs in the Department of Justice, including $14 million for reentry initiatives in the Federal Bureau of Prisons and $100 million for Second Chance Act grant programs:

- $37 million for reentry demonstration projects under Sec. 101 of the Second Chance Act
- $15 million for mentoring grants to nonprofit organizations under Sec. 211
- $10 million for reentry courts under Sec. 111
- $7.5 million for family-based, substance abuse treatment under Sec. 113
- $2.5 million for grants to evaluate and improve education in prisons, jails, and juvenile facilities under Sec. 114
- $5 million for technology careers training demonstration grants under Sec. 115
- $13 million for reentry substance abuse and criminal justice collaboration under Sec. 201
- $10 million for reentry research under Sec. 245

Update: Congressional Appropriations including the Department of Justice, provided $63 million for the FY 2012 Second Chance Act. The White House FY 2013 budget allocates $80 million for the Second Chance Act.

Re-Integration of Ex-Offenders

Each year, juvenile courts in the United States handle roughly 1.6 million cases involving criminal allegations. And each year, an estimated 144,000 youth are placed in juvenile correctional facilities.

- June 2012, the US Department of Labor (DOL) announced nearly $50 million in RExO grant awards to community-based organizations providing job-based training and education to youth returning from juvenile facilities or otherwise involved in the juvenile justice system. On July31, 2012, DOL held a summit in Washington, D.C. During her remarks, DOL Secretary Hilda Solis stated "once they leave juvenile detention, there is a window of opportunity when they're looking for a lifestyle that doesn't involve dealing or stealing. It's important that we give them an alternative, a chance to go back to school and get on a career pathway".
- May 2012, DOL issued for One-Stop Career Centers, state workforce agencies and other entities about complying with the Equal Employment Opportunity Commission's guidelines against exclusionary policies for people with criminal records

Evaluation Component? ☒ YES ☐ NO

Corporation for National and Community Service

A collaboration of DOJ and the USDOL to develop joint national service projects to support reentry. Over 30 full-time AmeriCorps VISTA members engaged to build capacity and partnership and to mobilize volunteer support for reentry initiatives.

Evaluation Component? ☒ YES ☐ NO

Local Initiatives Support Corporation

LISC's Community Safety Initiative is developing and testing models for addressing the challenges of prisoner reentry, housing environment, and public safety issues by focusing DOJ resources on the development of a reentry training curriculum for landlords and property managers.

Evaluation Component? ☒ YES ☐ NO

Federal Interagency Reentry Council

The purpose of this group is to bring together numerous federal agencies to make communities safer, assist those returning from prison and jail in becoming productive, tax-paying citizens, and save taxpayer dollars by lowering the direct and collateral costs of incarceration. Participating agencies include the following;
U.S. Department of Justice, U.S. Department of Labor, U.S. Department of Health and Human Services, U.S. Department of Housing and Urban Development, U.S. Department of Education, U.S. Department of Veterans Affairs, Office of National Drug Control Policy, U.S. Social Security Administration, U.S. Equal Employment Opportunity Commission, White House Office of Faith-Based and Neighborhood Partnerships, Federal Trade Commission, U.S. Interagency Council on Homelessness, Office of Management and Budget, Internal Revenue Service, Federal Trade Commission, Small Business Administration, Domestic Policy Council.

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: CRIMINAL RECORD RESTRICTIONS AND IMPACT BASED ON RACE AND NATIONALITY

EXECUTIVE SUMMARY:

Purpose:

This directive is intended to help the public workforce system and other entities, including covered entities (see the definition under the Policy and Procedures section of this directive) that receive federal financial assistance, comply with their nondiscrimination obligations when serving individuals with criminal records. It is also intended to ensure that exclusionary policies do not conflict with efforts to promote employment opportunities for such individuals. This directive applies to all jobs available through a covered entity's job bank without regard to whether the job is in government or the private sector, including federal contractors and subcontractors. This directive also reiterates relevant information located in WIA Section 188(a)(1) which prohibits discrimination on the basis of age, disability, sex, race, color, or national origin for programs and activities receiving federal financial assistance.

Scope:

This directive applies to all entities receiving federal financial assistance.

Effective Date:

This directive is effective upon release.

REFERENCES:

- Workforce Investment Act (WIA) Section 188(a)(1)
- Title VI and VII of the Civil Rights Act of 1964, as amended
- Title 20 Code of Federal Regulations (CFR) Sections 652.8(j)(1) and 652.8(j)(2)
- Title 29 CFR Parts 31.3(b)(2), 31.3(c)(1), 31.3(d)(1), 37.2(a)(2), and 37.6(d)(1)

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- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 31-11, Update on Complying with Nondiscrimination Provisions: Criminal Record Restrictions and Disparate Impact Based on Race and National Origin (May 25, 2012)

- California Fair Employment and Housing Act (FEHA) Section 12926(d)

- U.S. Equal Employment Opportunity Commission, Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

STATE-IMPOSED REQUIREMENTS:

This directive contains no State imposed requirements.

FILING INSTRUCTIONS:

This directive finalizes Workforce Services Draft Directive WSDD-75, issued for comment on August 3, 2012. The Workforce Services Division received six comments during the draft comment period. This resulted in one substantive change to the directive which is viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of the comments is provided as an Attachment. Retain this directive until further notice.

BACKGROUND:

In recent decades, the number of Americans who have had contact with the criminal justice system has drastically increased. In California, it is estimated that about one in four adults now has a criminal history record which often consists of an arrest that did not lead to conviction, a conviction without incarceration, or a conviction for a non-violent crime. Because of this increase, racial and ethnic disparities have arisen, which may be reflected in incarceration rates, as well as in other criminal history records. Federal and state programs have devoted significant resources to reducing barriers to employment of people with criminal records in an effort to also increase public safety.

POLICY AND PROCEDURES:

For the purposes of this directive, "covered entities" include One-Stop Career Centers, State Workforce Agencies, State Workforce Administrators, State Workforce Liaisons, State and Local Workforce Board Chairs and Directors, State and Locals Equal Opportunities Officers, State Labor Commissioners, Workforce Investment Act Section 166 Indian and Native American Grantees, Workforce Investment Act Section 167 Migrant and National Farmworker Jobs Program Grantees, Senior Community Service Employment Program Grantees, Employment and Training Administrative Regional Administrators, Job Corps Contractors, Sub-Recipients of Department of Labor Financial Assistance.

Employers and agencies within the public workforce system should be aware of federal antidiscrimination laws if they choose to rely on job applicants' criminal history records to help assess potential risk to employees, customers, and business assets. Hiring policies and practices that exclude individuals with criminal records may conflict with laws which prohibit intentional discrimination on the basis of race, national origin, or other protected groups, and policies or practices that have a disparate impact on these protected groups and cannot be justified as job related and consistent with business necessity. Policies that exclude individuals from employment or other services based on the existence of a criminal history record, and do not take into account the age and nature of an offense, or the relationship of the record to the specific job duties, are likely to unjustifiably restrict the employment opportunities of individuals with conviction histories and, due to racial and ethnic disparities in the criminal justice system, are likely to violate federal antidiscrimination law. Accordingly, employers and agencies should carefully consider their legal obligations before adopting such policies. Covered entities may also wish to direct employers to the Equal Employment Opportunity Commission (EEOC) Reentry Myth Buster (Attachment 1) which clarifies that an arrest or conviction record will not automatically bar individuals from employment.

The nondiscrimination provisions that apply to the federally-assisted workforce system prohibit:

- Disparate treatment - intentionally treating members of protected groups differently based on their protected status.

- Disparate impact - the use of policies or practices that are neutral on their face, but have a disproportionate impact on members of protected groups, and are not job related and consistent with business necessity.

Title VII of the Civil Rights Act of 1964, as amended applies to employers with 15 or more employees, and prohibits employment discrimination based on race, color, religion, sex, or national origin. Title VII also contains provisions that specifically address employment agency activities. Entities within the public workforce system like One-Stop Career Centers, may be regarded as "employment agencies" under the law and are not permitted to:

- Print, publish, or cause to be printed, any job announcement that discriminates based on race, color, religion, sex, or national origin unless there is a bona fide occupational qualification for a preference based on religion, sex, or national origin.

- Refuse to refer an individual for employment or otherwise to discriminate against any individual based on race, color, religion, sex, or national origin.

The EEOC, the federal agency that administers and enforces Title VII, has issued guidance on the use of arrest and conviction records in employment decisions (Attachment 2). Based on this guidance:

- An employer's neutral policy (e.g., excluding applicants from employment based on certain criminal conduct) may disproportionately impact some individuals protected

under Title VII, and may violate the law if not job related and consistent with business necessity (disparate impact liability).

- National data supports a finding that criminal record exclusions have a disparate impact based on race and national origin. The national data provides a basis for the Commission to investigate Title VII disparate impact charges challenging criminal record exclusions.

California's parallel law to Title VII of the Civil Rights Act of 1964 is the FEHA. It is important to note that California law is more restrictive than federal law. Section 12926(d) of the FEHA applies to employers with 5 more employees rather than the 15 or more employees described above in Title VII.

Title VI of the Civil Rights Act of 1964 applies to all programs or activities receiving federal financial assistance under WIA and the Wagner-Peyser Act (WP). Title VI and its implementing regulations prohibit any program or activity from subjecting anyone to discrimination on the grounds of race, color, or national origin.

WIA Section 188(a)(1) further reiterates that no individual may be discriminated against based on age, disability, sex, race, color, or national origin. As a condition of initiating or continuing federal financial assistance, recipients must provide assurances that "the program will be conducted or the facility operated in compliance with all requirements imposed by" the nondiscrimination provision in Title VI.

In light of the legal obligations, all entities should conduct their activities using safeguards to prevent discrimination and promote employment opportunities for formerly-incarcerated and other individuals with criminal records via the following methods:

<u>Posting job announcements in job banks</u>

When soliciting or posting job vacancies from employers, business services representatives, or other sources, policies and procedures should be in place to ensure that the following steps are taken:

- Covered entities should provide employers with Attachment 3, titled Notice #1 for Employers Regarding Job Bank Nondiscrimination and Criminal Record Exclusions when registering to use a job bank with a One-Stop or other covered entity. First, the notice explains that the covered entity must comply with federal civil rights laws which, due to the likely disparate impact of excluding protected groups with criminal records generally prohibit rejecting individuals based solely on an arrest or conviction history. Second, the notice also provides information for employers about their obligations under the federal Fair Credit Reporting Act, which require employers to obtain applicants' permission before asking a background screening company for a criminal history report. Employers must also provide applicants with a copy of the report and a summary of their rights before taking any negative employment action (e.g. not hiring or firing). Third, the notice also provides information for employers about their obligations under the California Investigative

Consumer Reporting Agencies Act, which limits reporting by consumer reporting agencies of criminal convictions that are older than seven years, and California Labor Code § 432.7 and California Code of Regulations, Title 2, § 7287.4(d)(1), which prevents employers from asking about arrests that did not lead to conviction and about misdemeanor convictions that have been dismissed pursuant to California Penal Code § 1203.4. Finally, the notice describes the Work Opportunity Tax Credit and the Federal Bonding Program, two incentives that support employers' hiring of individuals with conviction histories.

- Covered entities should use a system, automated or otherwise, for identifying vacancy announcements that include hiring restrictions based on arrest and/or conviction records. This system may be the same one already in use to identify other discriminatory language in job postings.

- Covered entities should provide employers the notice that appears as Attachment 4 in this directive, when job postings have been identified that exclude individuals based on arrest and/or conviction history. The notice states that in order to ensure that the employer and covered entity are in compliance with federal civil rights law, the employer will be given the opportunity to remove or edit the vacancy announcement. The notice and opportunity to remove or edit should be provided to the employer whether the vacancy announcement has been posted directly with the covered entity or has instead been made available in the job bank through other means.

- Vacancy announcements containing language excluding candidates based on criminal history should only remain posted when accompanied by the notice to job seekers that appear as Attachment 5 in this directive. This notice explains that the exclusions in the posting may have an adverse impact on protected groups, as set forth in the EEOC guidance. The notice further informs job seekers that individuals with criminal history records are not prohibited from applying for the posted position.

- Covered entities should retain records of the notices sent to address vacancy announcements containing hiring restrictions based on arrest and/or conviction records. The DOL recognizes that covered entities have a variety of systems in place to comply with nondiscrimination obligations, and that entities engage with employers in varying ways. Entities may elect to take other steps that are at least equally effective in achieving compliance with their nondiscrimination obligations.

<u>Screening and referral based on criminal record restrictions</u>

When screening or referring individuals for vacancy announcements, job orders, training, or other employment-related services:

- Covered entity staff should follow the EEOC's arrest and conviction guidance (Attachment 2), if an arrest or a conviction history is used for purposes of excluding an individual from the entity's training programs or other employment-related services. However, nothing in this directive prevents staff from taking into account

an individual's arrest or conviction history for purposes designed to help such individuals.

- Covered entities should refrain from screening and refusing to make referrals because an applicant has a criminal history record. Job seekers who are referred for positions where the job posting takes criminal history into account should receive a copy of Attachment 4 for job seekers along with the job announcement.

ACTION:

Program operators are directed to review their existing policies and procedures and make any changes necessary to implement the guidance discussed in this directive. Furthermore, please bring this directive to the attention of all relevant parties.

INQUIRIES:

If you have any questions, please contact your Regional Advisor at (916) 654-7799.

/S/ MICHAEL EVASHENK, Chief
Workforce Services Division

Attachments are available on the Internet:

1. EEOC Reentry Myth Buster (493k)(PDF)
2. Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended (761k) (PDF)
3. Notice #1 for Employers Regarding Job Bank Nondiscrimination and Criminal Record Exclusions (PDF)
4. Notice #2 for Employers Regarding Job Postings Containing Criminal Record Exclusions (PDF)
5. Notice #3 for Job Seekers to be Attached to Job Postings with Criminal Record Exclusions (PDF)
6. Summary of Comments (PDF)