

HB3654



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3654

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

225 ILCS 447/35-30

Amends the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. Provides that no person shall be issued a permanent employee registration card who has been convicted of battery, aggravated battery, domestic battery, or aggravated domestic battery if the offense for which the person was convicted or adjudicated was sexually motivated. Effective immediately.

LRB101 11013 JRG 56207 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Private Detective, Private Alarm, Private
5 Security, Fingerprint Vendor, and Locksmith Act of 2004 is
6 amended by changing Section 35-30 as follows:

7 (225 ILCS 447/35-30)

8 (Section scheduled to be repealed on January 1, 2024)

9 Sec. 35-30. Employee requirements. All employees of a
10 licensed agency, other than those exempted, shall apply for a
11 permanent employee registration card. The holder of an agency
12 license issued under this Act, known in this Section as
13 "employer", may employ in the conduct of his or her business
14 employees under the following provisions:

15 (a) No person shall be issued a permanent employee
16 registration card who:

17 (1) Is younger than 18 years of age.

18 (2) Is younger than 21 years of age if the services
19 will include being armed.

20 (3) Has been determined by the Department to be unfit
21 by reason of conviction of an offense in this or another
22 state, including registration as a sex offender, but not
23 including a traffic offense. Persons convicted of felonies

1 involving bodily harm, weapons, violence, or theft within
2 the previous 10 years shall be presumed to be unfit for
3 registration. The Department shall adopt rules for making
4 those determinations that shall afford the applicant due
5 process of law.

6 (4) Has had a license or permanent employee
7 registration card denied, suspended, or revoked under this
8 Act (i) within one year before the date the person's
9 application for permanent employee registration card is
10 received by the Department; and (ii) that refusal, denial,
11 suspension, or revocation was based on any provision of
12 this Act other than Section 40-50, item (6) or (8) of
13 subsection (a) of Section 15-10, subsection (b) of Section
14 15-10, item (6) or (8) of subsection (a) of Section 20-10,
15 subsection (b) of Section 20-10, item (6) or (8) of
16 subsection (a) of Section 25-10, subsection (b) of Section
17 25-10, item (7) of subsection (a) of Section 30-10,
18 subsection (b) of Section 30-10, or Section 10-40.

19 (5) Has been declared incompetent by any court of
20 competent jurisdiction by reason of mental disease or
21 defect and has not been restored.

22 (6) Has been dishonorably discharged from the armed
23 services of the United States.

24 (7) Has been convicted of battery under Section 12-3 of
25 the Criminal Code of 2012, aggravated battery under Section
26 12-3.05 of the Criminal Code of 2012, domestic battery

1 under Section 12-3.2 of the Criminal Code of 2012, or
2 aggravated domestic battery under Section 12-3.3 of the
3 Criminal Code of 2012 if the offense for which the person
4 was convicted or adjudicated was sexually motivated, as
5 defined by Section 10 of the Sex Offender Management Board
6 Act.

7 (b) No person may be employed by a private detective
8 agency, private security contractor agency, private alarm
9 contractor agency, fingerprint vendor agency, or locksmith
10 agency under this Section until he or she has executed and
11 furnished to the employer, on forms furnished by the
12 Department, a verified statement to be known as "Employee's
13 Statement" setting forth:

14 (1) The person's full name, age, and residence address.

15 (2) The business or occupation engaged in for the 5
16 years immediately before the date of the execution of the
17 statement, the place where the business or occupation was
18 engaged in, and the names of employers, if any.

19 (3) That the person has not had a license or employee
20 registration denied, revoked, or suspended under this Act
21 (i) within one year before the date the person's
22 application for permanent employee registration card is
23 received by the Department; and (ii) that refusal, denial,
24 suspension, or revocation was based on any provision of
25 this Act other than Section 40-50, item (6) or (8) of
26 subsection (a) of Section 15-10, subsection (b) of Section

1 15-10, item (6) or (8) of subsection (a) of Section 20-10,
2 subsection (b) of Section 20-10, item (6) or (8) of
3 subsection (a) of Section 25-10, subsection (b) of Section
4 25-10, item (7) of subsection (a) of Section 30-10,
5 subsection (b) of Section 30-10, or Section 10-40.

6 (4) Any conviction of a felony or misdemeanor.

7 (5) Any declaration of incompetence by a court of
8 competent jurisdiction that has not been restored.

9 (6) Any dishonorable discharge from the armed services
10 of the United States.

11 (7) Any other information as may be required by any
12 rule of the Department to show the good character,
13 competency, and integrity of the person executing the
14 statement.

15 (c) Each applicant for a permanent employee registration
16 card shall have his or her fingerprints submitted to the
17 Department of State Police in an electronic format that
18 complies with the form and manner for requesting and furnishing
19 criminal history record information as prescribed by the
20 Department of State Police. These fingerprints shall be checked
21 against the Department of State Police and Federal Bureau of
22 Investigation criminal history record databases now and
23 hereafter filed. The Department of State Police shall charge
24 applicants a fee for conducting the criminal history records
25 check, which shall be deposited in the State Police Services
26 Fund and shall not exceed the actual cost of the records check.

1 The Department of State Police shall furnish, pursuant to
2 positive identification, records of Illinois convictions to
3 the Department. The Department may require applicants to pay a
4 separate fingerprinting fee, either to the Department or
5 directly to the vendor. The Department, in its discretion, may
6 allow an applicant who does not have reasonable access to a
7 designated vendor to provide his or her fingerprints in an
8 alternative manner. The Department, in its discretion, may also
9 use other procedures in performing or obtaining criminal
10 background checks of applicants. Instead of submitting his or
11 her fingerprints, an individual may submit proof that is
12 satisfactory to the Department that an equivalent security
13 clearance has been conducted. Also, an individual who has
14 retired as a peace officer within 12 months of application may
15 submit verification, on forms provided by the Department and
16 signed by his or her employer, of his or her previous full-time
17 employment as a peace officer.

18 (d) The Department shall issue a permanent employee
19 registration card, in a form the Department prescribes, to all
20 qualified applicants. The holder of a permanent employee
21 registration card shall carry the card at all times while
22 actually engaged in the performance of the duties of his or her
23 employment. Expiration and requirements for renewal of
24 permanent employee registration cards shall be established by
25 rule of the Department. Possession of a permanent employee
26 registration card does not in any way imply that the holder of

1 the card is employed by an agency unless the permanent employee
2 registration card is accompanied by the employee
3 identification card required by subsection (f) of this Section.

4 (e) Each employer shall maintain a record of each employee
5 that is accessible to the duly authorized representatives of
6 the Department. The record shall contain the following
7 information:

8 (1) A photograph taken within 10 days of the date that
9 the employee begins employment with the employer. The
10 photograph shall be replaced with a current photograph
11 every 3 calendar years.

12 (2) The Employee's Statement specified in subsection
13 (b) of this Section.

14 (3) All correspondence or documents relating to the
15 character and integrity of the employee received by the
16 employer from any official source or law enforcement
17 agency.

18 (4) In the case of former employees, the employee
19 identification card of that person issued under subsection
20 (f) of this Section. Each employee record shall duly note
21 if the employee is employed in an armed capacity. Armed
22 employee files shall contain a copy of an active firearm
23 owner's identification card and a copy of an active firearm
24 control card. Each employer shall maintain a record for
25 each armed employee of each instance in which the
26 employee's weapon was discharged during the course of his

1 or her professional duties or activities. The record shall
2 be maintained on forms provided by the Department, a copy
3 of which must be filed with the Department within 15 days
4 of an instance. The record shall include the date and time
5 of the occurrence, the circumstances involved in the
6 occurrence, and any other information as the Department may
7 require. Failure to provide this information to the
8 Department or failure to maintain the record as a part of
9 each armed employee's permanent file is grounds for
10 disciplinary action. The Department, upon receipt of a
11 report, shall have the authority to make any investigation
12 it considers appropriate into any occurrence in which an
13 employee's weapon was discharged and to take disciplinary
14 action as may be appropriate.

15 (5) A copy of the employee's permanent employee
16 registration card or a copy of the Department's "License
17 Lookup" Webpage showing that the employee has been issued a
18 valid permanent employee registration card by the
19 Department.

20 The Department may, by rule, prescribe further record
21 requirements.

22 (f) Every employer shall furnish an employee
23 identification card to each of his or her employees. This
24 employee identification card shall contain a recent photograph
25 of the employee, the employee's name, the name and agency
26 license number of the employer, the employee's personal

1 description, the signature of the employer, the signature of
2 that employee, the date of issuance, and an employee
3 identification card number.

4 (g) No employer may issue an employee identification card
5 to any person who is not employed by the employer in accordance
6 with this Section or falsely state or represent that a person
7 is or has been in his or her employ. It is unlawful for an
8 applicant for registered employment to file with the Department
9 the fingerprints of a person other than himself or herself.

10 (h) Every employer shall obtain the identification card of
11 every employee who terminates employment with him or her.

12 (i) Every employer shall maintain a separate roster of the
13 names of all employees currently working in an armed capacity
14 and submit the roster to the Department on request.

15 (j) No agency may employ any person to perform a licensed
16 activity under this Act unless the person possesses a valid
17 permanent employee registration card or a valid license under
18 this Act, or is exempt pursuant to subsection (n).

19 (k) Notwithstanding the provisions of subsection (j), an
20 agency may employ a person in a temporary capacity if all of
21 the following conditions are met:

22 (1) The agency completes in its entirety and submits to
23 the Department an application for a permanent employee
24 registration card, including the required fingerprint
25 receipt and fees.

26 (2) The agency has verification from the Department

1 that the applicant has no record of any criminal conviction
2 pursuant to the criminal history check conducted by the
3 Department of State Police. The agency shall maintain the
4 verification of the results of the Department of State
5 Police criminal history check as part of the employee
6 record as required under subsection (e) of this Section.

7 (3) The agency exercises due diligence to ensure that
8 the person is qualified under the requirements of the Act
9 to be issued a permanent employee registration card.

10 (4) The agency maintains a separate roster of the names
11 of all employees whose applications are currently pending
12 with the Department and submits the roster to the
13 Department on a monthly basis. Rosters are to be maintained
14 by the agency for a period of at least 24 months.

15 An agency may employ only a permanent employee applicant
16 for which it either submitted a permanent employee application
17 and all required forms and fees or it confirms with the
18 Department that a permanent employee application and all
19 required forms and fees have been submitted by another agency,
20 licensee or the permanent employee and all other requirements
21 of this Section are met.

22 The Department shall have the authority to revoke, without
23 a hearing, the temporary authority of an individual to work
24 upon receipt of Federal Bureau of Investigation fingerprint
25 data or a report of another official authority indicating a
26 criminal conviction. If the Department has not received a

1 temporary employee's Federal Bureau of Investigation
2 fingerprint data within 120 days of the date the Department
3 received the Department of State Police fingerprint data, the
4 Department may, at its discretion, revoke the employee's
5 temporary authority to work with 15 days written notice to the
6 individual and the employing agency.

7 An agency may not employ a person in a temporary capacity
8 if it knows or reasonably should have known that the person has
9 been convicted of a crime under the laws of this State, has
10 been convicted in another state of any crime that is a crime
11 under the laws of this State, has been convicted of any crime
12 in a federal court, or has been posted as an unapproved
13 applicant by the Department. Notice by the Department to the
14 agency, via certified mail, personal delivery, electronic
15 mail, or posting on the Department's Internet site accessible
16 to the agency that the person has been convicted of a crime
17 shall be deemed constructive knowledge of the conviction on the
18 part of the agency. The Department may adopt rules to implement
19 this subsection (k).

20 (1) No person may be employed under this Section in any
21 capacity if:

22 (1) the person, while so employed, is being paid by the
23 United States or any political subdivision for the time so
24 employed in addition to any payments he or she may receive
25 from the employer; or

26 (2) the person wears any portion of his or her official

1 uniform, emblem of authority, or equipment while so
2 employed.

3 (m) If information is discovered affecting the
4 registration of a person whose fingerprints were submitted
5 under this Section, the Department shall so notify the agency
6 that submitted the fingerprints on behalf of that person.

7 (n) Peace officers shall be exempt from the requirements of
8 this Section relating to permanent employee registration
9 cards. The agency shall remain responsible for any peace
10 officer employed under this exemption, regardless of whether
11 the peace officer is compensated as an employee or as an
12 independent contractor and as further defined by rule.

13 (o) Persons who have no access to confidential or security
14 information, who do not go to a client's or prospective
15 client's residence or place of business, and who otherwise do
16 not provide traditional security services are exempt from
17 employee registration. Examples of exempt employees include,
18 but are not limited to, employees working in the capacity of
19 ushers, directors, ticket takers, cashiers, drivers, and
20 reception personnel. Confidential or security information is
21 that which pertains to employee files, scheduling, client
22 contracts, or technical security and alarm data.

23 (p) An applicant who is 21 years of age or older seeking a
24 religious exemption to the photograph requirement of this
25 Section shall furnish with the application an approved copy of
26 United States Department of the Treasury Internal Revenue

1 Service Form 4029. Regardless of age, an applicant seeking a
2 religious exemption to this photograph requirement shall
3 submit fingerprints in a form and manner prescribed by the
4 Department with his or her application in lieu of a photograph.
5 (Source: P.A. 98-253, eff. 8-9-13; 98-848, eff. 1-1-15.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.