

AN ACT concerning local government.

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

Section 5. The Illinois Police Training Act is amended by adding Section 6.5 as follows:

(50 ILCS 705/6.5 new)

Sec. 6.5. Hiring decisions; inspection of employment records.

(a) No law enforcement agency shall make a final offer of employment for the position of probationary police officer, probationary part-time police officer, full-time law enforcement officer, or part-time law enforcement officer without requiring the execution of a signed release from the applicant, presented in accordance with this Section, directing any and all entities that previously employed the individual to produce or make available for inspection all employment records, including background investigation materials collected in connection with making a final offer of employment; duty-related physical and psychological fitness-for-duty examinations; work performance records; records of criminal, civil, or administrative investigations of conduct; arrests; convictions; findings of guilt; pleas of guilty; or pleas of nolo contendere.

(b) Any law enforcement agency or other previous employer that receives a signed request for the employment records of any current or former employee, as described in subsection (a), shall produce those records to the requesting law enforcement agency within 14 days after receipt of that request. If additional time is required for production of the requested records, the producing law enforcement agency or other previous employer may advise the requesting law enforcement agency that an extension of up to 14 days is required. The producing law enforcement agency shall also execute and provide a signed verification that indicates all responsive records have been provided and that no known records have been intentionally withheld. The producing law enforcement agency or other previous employer shall also certify in writing that it is not aware of any other credible, verifiable, relevant, and material information regarding the applicant that would reflect negatively on the applicant's fitness for employment as an officer and that is not contained in the records produced.

(c) The requesting law enforcement agency or the Board may be required to pay the reasonable costs and expenses of the agency that is collecting and producing responsive records.

(d) With the exception of social security numbers, individual taxpayer identification numbers, driver's license and state identification card numbers, financial account numbers, and debit and credit card numbers, all records

referenced in paragraph (1) shall be produced without any redaction, and no nondisclosure, separation, or settlement agreement shall prevent the production of these records. If some records have been sealed or otherwise protected by a court order, then the requesting agency shall be advised in writing so it can seek appropriate relief from the court that entered the sealing or nondisclosure order.

(e) If an entity required to produce records in accordance with this Section fails to produce the requested records, the requesting law enforcement agency may seek a court order to compel the production of those records. In addition to granting equitable relief, the circuit court may also award the requesting agency fees and costs, including reasonable attorney's fees incurred in seeking a court order.

(f) The requesting law enforcement agency shall receive and review all materials before making a final offer of employment.

(g) The requirements of this Section are in addition to and not in lieu of the other investigations required under the Act.

(h) The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in collective bargaining agreements in effect on the effective date of this amendatory Act of the 104th General Assembly. A collective bargaining agreement that conflicts with this Section may not be entered into, modified, or

extended on or after the effective date of this amendatory Act of the 104th General Assembly. These provisions also do not apply if the previous law enforcement employer has been provided with a directive and explanation, in writing, from the State's Attorney of the county in which the previous law enforcement employer is located that the previous law enforcement employer is not legally authorized to provide the requested information.

(i) The written release to be signed and executed by an applicant, directing any agency that previously employed the applicant to produce or make available for inspection all of the applicant's employment records, as required by this Section, may take the following form:

CONSENT AND RELEASE FOR BACKGROUND INVESTIGATION

Acknowledgment of Consent

I, [Applicant's Name], acknowledge that I am seeking employment in a safety-sensitive field and that establishing my employment eligibility requires a thorough investigation into my background and character.

Furthermore, I acknowledge and agree that as a condition of being considered for employment with [Prospective Employer's Name] ("Employer"), or for maintaining my continued employment with the employer, it is required that I consent to a complete and thorough investigation of my background to determine whether I am a suitable candidate for the position of [Name of Job Title] with the employer.

Mandatory Background Investigation

I authorize the employer to conduct a background investigation of me, which shall include, but shall not be limited to, a:

- (1) a review of my complete employment history;
 - (2) a review of my complete criminal history;
 - (3) a review of driving records;
 - (4) a background check with the Department of Children and Family Services;
 - (5) interviews with my personal references;
 - (6) a review of all internal investigation files from any previous employers;
 - (7) a verification of academic credentials and licenses;
 - (8) a review of my military service history, if any;
- and
- (9) a review of the Illinois Law Enforcement Training Standards Board's records and officer misconduct database.

Credit Check

I hereby consent to the employer obtaining and reviewing any credit and consumer reports, as permitted under the federal Fair Credit Reporting Act and local or state credit privacy laws, if applicable. I understand that the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq., authorizes me to request a copy of any consumer credit report from the consumer reporting agency that compiled the report.

Consent to Release of Information

I hereby consent to the release of all employment records from my current and former employers, including, but not limited to:

- (1) job applications;
- (2) personnel files;
- (3) internal investigations;
- (4) separation agreements;
- (5) pre-employment evaluations;
- (6) tests;
- (7) questionnaires;
- (8) fitness-for-duty examinations; and
- (9) any other information obtained about me by the entity to whom this Consent is presented.

Consent to Required Interviews and Evaluations

I further agree to participate in a personal interview, testing process, polygraph examination, post-offer psychological evaluation and medical evaluation, or any combination of those examinations or tests, as determined by the employer.

Confidentiality

All information obtained by the employer under this background investigation shall be confidential and safeguarded against disclosure to all unauthorized persons as required by law. However, nothing prevents the employer from using the information obtained to evaluate my suitability for

employment.

I specifically consent to the disclosure of information that may be covered by a settlement agreement or other confidentiality provision entered into with my former employers, and I waive any rights to enforce any prior confidentiality agreement against my former employer about this disclosure.

Waiver of Privacy

I waive any right or claim to privacy in such information and consent to the disclosure of information that may be exempt from disclosure by law.

I waive any right I may have to be notified by any individuals and organizations named in my application for employment before the release of any information to the employer, including the release of information concerning any disciplinary action taken against me by former employers.

Indemnification

In exchange for this release of all of my personnel information, I, agree to release, discharge, and hold harmless any person, firm, or entity and their employees and agents that disclose information in response to receipt of this consent, from any liability for all claims, liabilities, causes of action, known or unknown, fixed or contingent, that arise from or that are in any manner connected to the disclosure of any personal information as described above. I further release and hold harmless the employer and the

employer's respective personnel, employees, and agents from any liability resulting from or in connection with, the results of this background investigation concerning my fitness for employment or continued employment at the employer or the decision to hire me, not to hire me, or retain me in my position.

Signature

I agree to electronically sign this document and certify that I have read, understand, and agree to the terms and conditions set forth in this document and that this is a complete waiver under Section 10 of Employment Record Disclosure Act.

Signature.....

Printed Name

Social Security No.....

(j) The Board and any local or State agency, sheriff, police chief, county, municipality, private business or corporation, or other person is immune from suit or liability for submitting, disclosing, or releasing information of employment records, including background investigation materials collected in connection with making a final offer of employment; duty-related physical and psychological fitness-for-duty examinations; work performance records; records of criminal, civil, or administrative investigations of conduct; arrests; convictions; findings of guilt; pleas of guilty; or pleas of nolo contendere under this Section upon

receiving a written release for those records executed and presented in accordance with this Section, as long as the information is submitted, disclosed, or released in good faith and without malice. The Board, all previous employers, and the agents and employees of all previous employers have immunity for the release of the information.

Section 10. The Counties Code is amended by changing Section 3-8002 as follows:

(55 ILCS 5/3-8002) (from Ch. 34, par. 3-8002)

Sec. 3-8002. Applicability and adoption. The county board of every county having a county police department merit board established under the County Police Department Act (repealed) or a merit commission for sheriff's personnel established under Section 58.1 of "An Act to revise the law in relation to counties", approved March 31, 1874, as amended (repealed), shall adopt and implement the merit system provided by this Division and shall modify the merit system now in effect in that county as may be necessary to comply with this Division.

The county board of any county having a population of at least 75,000 ~~less than 1,000,000~~ which does not have a merit board or merit commission for sheriff's personnel shall ~~may~~ adopt and implement by ordinance the merit system provided by this Division. For counties with a population of less than 75,000, if ~~if~~ the county board does not adopt such a merit

system by an ordinance and if a petition signed by not fewer than 5% or 1000, whichever is less, of the registered electors of any such county is filed with the county clerk requesting a referendum on the adoption of a merit system for deputies in the office of the Sheriff, the county board shall, by appropriate ordinance, cause the question to be submitted to the electors of the county, at a special or general election specified in such ordinance, in accordance with the provisions of Section 28-3 of the Election Code. Notice of the election shall be given as provided in Article 12 of that Code. If a majority of those voting on the proposition at such election vote in favor thereof, the county board shall adopt and implement a merit system provided in this Division. When a merit board or merit commission for sheriff's personnel has been established in a county, it may be abolished by the same procedure in which it was established.

This Division does not apply to any county having a population of more than 1,000,000 ~~nor to any county which has not elected to adopt the merit system provided by this Division and which is not required to do so under this Section.~~
(Source: P.A. 103-605, eff. 7-1-24.)

Section 15. The Personnel Record Review Act is amended by changing Sections 1 and 8 and by adding Section 8.5 as follows:

(820 ILCS 40/1) (from Ch. 48, par. 2001)

Sec. 1. Definitions. As used in this Act:

(a) "Employee" means a person currently employed or subject to recall after layoff or leave of absence with a right to return at a position with an employer or a former employee who has terminated service within the preceding year.

(b) "Employer" means an individual, corporation, partnership, labor organization, unincorporated association, the State, an agency or a political subdivision of the State, or any other legal, business, or commercial entity which has 5 employees or more than 5 employees exclusive of the employer's parent, spouse or child or other members of his immediate family and includes an agent of the employer.

(c) "Law enforcement agency" means any entity with statutory police powers and the ability to employ individuals authorized to make arrests.

(d) "Law enforcement personnel file" means all records related to a law enforcement officer's performance, discipline, training, employment history, and any investigation of the law enforcement officer for the duration of the law enforcement officer's employment with the law enforcement agency, including, but not limited to, background investigation materials collected in connection with making a final offer of employment, duty-related physical and psychological fitness-for-duty examinations, work performance records, criminal, civil, or administrative investigations of conduct, arrests, convictions, findings of guilt, pleas of

guilty, or pleas of nolo contendere.

(Source: P.A. 83-1339.)

(820 ILCS 40/8) (from Ch. 48, par. 2008)

Sec. 8. An employer shall review a personnel record before releasing information to a third party and, except when the release is required under Section 8.5 or ordered to a party in a legal action or arbitration, delete disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than 4 years old. This Section does not apply to a school district or an authorized employee or agent of a school district who is sharing information related to an incident or an attempted incident of sexual abuse, severe physical abuse, or sexual misconduct as defined in subsection (c) of Section 22-85.5 of this Code.

(Source: P.A. 101-531, eff. 8-23-19; 102-702, eff. 7-1-23.)

(820 ILCS 40/8.5 new)

Sec. 8.5. Release of law enforcement personnel files.

(a) A law enforcement agency shall release a complete law enforcement personnel file upon receipt of a written request from a law enforcement agency for the purpose of making an employment determination by the law enforcement agency or a hiring board, such as the Illinois State Police Merit Board or an equivalent board. A written request made under this subsection shall be on the law enforcement agency's official

letterhead, signed by the agency head or the agency head's designee, and shall include a written release or waiver for the personnel file and records signed by the law enforcement applicant applying for employment with the law enforcement agency.

Except for a social security number, individual taxpayer identification number, driver's license and state identification card number, financial account number, and debit and credit card number, the law enforcement applicant's personnel file shall be produced without any redaction. Any provision in a nondisclosure, separation, or settlement agreement that prohibits the production of a law enforcement personnel file is null and void. If a record has been sealed or otherwise protected by a court order, the producing law enforcement agency shall notify the requesting law enforcement agency and the requesting law enforcement agency may seek appropriate relief from the court that entered the sealing or nondisclosure order.

(b) If a request is made for release of a law enforcement personnel file that satisfies the requirements described in subsection (a), the producing law enforcement agency shall release a copy of the law enforcement personnel file to the requesting law enforcement agency no later than 14 days after receipt of the request. If additional time is required for production of the law enforcement personnel file, the producing law enforcement agency may inform the requesting law

enforcement agency that an extension of up to 14 days is required.

Upon producing a law enforcement personnel file, the producing law enforcement agency shall execute and provide a signed verification form that indicates all responsive records have been provided and that no known records have been intentionally withheld. The producing law enforcement agency shall also certify in writing that it is not aware of any other credible, verifiable, relevant, and material information regarding the applicant that would reflect negatively on the applicant's fitness for employment as an officer and that is not contained in the law enforcement personnel file.

(c) The provisions of this Section do not apply to the extent that they are inconsistent with provisions otherwise agreed to in collective bargaining agreements in effect on the effective date of this amendatory Act of the 104th General Assembly. A collective bargaining agreement that conflicts with this Section may not be entered into, modified, or extended on or after the effective date of this amendatory Act of the 104th General Assembly.

(d) A law enforcement agency and a law enforcement agency's agents and employees are immune from suit and liability for producing, disclosing, or releasing a law enforcement applicant's personnel file in accordance with this Section.