

AN ACT concerning criminal law.

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

Section 5. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by changing Section 2105-15 as follows:

(20 ILCS 2105/2105-15) (was 20 ILCS 2105/60)

Sec. 2105-15. General powers and duties.

(a) The Department has, subject to the provisions of the Civil Administrative Code of Illinois, the following powers and duties:

(1) To authorize examinations in English to ascertain the qualifications and fitness of applicants to exercise the profession, trade, or occupation for which the examination is held.

(2) To prescribe rules and regulations for a fair and wholly impartial method of examination of candidates to exercise the respective professions, trades, or occupations.

(3) To pass upon the qualifications of applicants for licenses, certificates, and authorities, whether by examination, by reciprocity, or by endorsement.

(4) To prescribe rules and regulations defining, for

the respective professions, trades, and occupations, what shall constitute a school, college, or university, or department of a university, or other institution, reputable and in good standing, and to determine the reputability and good standing of a school, college, or university, or department of a university, or other institution, reputable and in good standing, by reference to a compliance with those rules and regulations; provided, that no school, college, or university, or department of a university, or other institution that refuses admittance to applicants solely on account of race, color, creed, sex, or national origin shall be considered reputable and in good standing.

(5) To conduct hearings on proceedings to revoke, suspend, refuse to renew, place on probationary status, or take other disciplinary action as authorized in any licensing Act administered by the Department with regard to licenses, certificates, or authorities of persons exercising the respective professions, trades, or occupations and to revoke, suspend, refuse to renew, place on probationary status, or take other disciplinary action as authorized in any licensing Act administered by the Department with regard to those licenses, certificates, or authorities. The Department shall issue a monthly disciplinary report. The Department shall deny any license or renewal authorized by the Civil Administrative Code of

Illinois to any person who has defaulted on an educational loan or scholarship provided by or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State; however, the Department may issue a license or renewal if the aforementioned persons have established a satisfactory repayment record as determined by the Illinois Student Assistance Commission or other appropriate governmental agency of this State. Additionally, beginning June 1, 1996, any license issued by the Department may be suspended or revoked if the Department, after the opportunity for a hearing under the appropriate licensing Act, finds that the licensee has failed to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted loan. For the purposes of this Section, "satisfactory repayment record" shall be defined by rule. The Department shall refuse to issue or renew a license to, or shall suspend or revoke a license of, any person who, after receiving notice, fails to comply with a subpoena or warrant relating to a paternity or child support proceeding. However, the Department may issue a license or renewal upon compliance with the subpoena or warrant.

The Department, without further process or hearings, shall revoke, suspend, or deny any license or renewal authorized by the Civil Administrative Code of Illinois to a person who is certified by the Department of Healthcare

and Family Services (formerly Illinois Department of Public Aid) as being more than 30 days delinquent in complying with a child support order or who is certified by a court as being in violation of the Non-Support Punishment Act for more than 60 days. The Department may, however, issue a license or renewal if the person has established a satisfactory repayment record as determined by the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) or if the person is determined by the court to be in compliance with the Non-Support Punishment Act. The Department may implement this paragraph as added by Public Act 89-6 through the use of emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of the Illinois Administrative Procedure Act, the adoption of rules to implement this paragraph shall be considered an emergency and necessary for the public interest, safety, and welfare.

(6) To transfer jurisdiction of any realty under the control of the Department to any other department of the State Government or to acquire or accept federal lands when the transfer, acquisition, or acceptance is advantageous to the State and is approved in writing by the Governor.

(7) To formulate rules and regulations necessary for the enforcement of any Act administered by the Department.

(8) To exchange with the Department of Healthcare and

Family Services information that may be necessary for the enforcement of child support orders entered pursuant to the Illinois Public Aid Code, the Illinois Marriage and Dissolution of Marriage Act, the Non-Support of Spouse and Children Act, the Non-Support Punishment Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or the Illinois Parentage Act of 1984. Notwithstanding any provisions in this Code to the contrary, the Department of Professional Regulation shall not be liable under any federal or State law to any person for any disclosure of information to the Department of Healthcare and Family Services (formerly Illinois Department of Public Aid) under this paragraph (8) or for any other action taken in good faith to comply with the requirements of this paragraph (8).

(9) To perform other duties prescribed by law.

(b) The Department may, when a fee is payable to the Department for a wall certificate of registration provided by the Department of Central Management Services, require that portion of the payment for printing and distribution costs be made directly or through the Department to the Department of Central Management Services for deposit into the Paper and Printing Revolving Fund. The remainder shall be deposited into the General Revenue Fund.

(c) For the purpose of securing and preparing evidence, and for the purchase of controlled substances, professional

services, and equipment necessary for enforcement activities, recoupment of investigative costs, and other activities directed at suppressing the misuse and abuse of controlled substances, including those activities set forth in Sections 504 and 508 of the Illinois Controlled Substances Act, the Director and agents appointed and authorized by the Director may expend sums from the Professional Regulation Evidence Fund that the Director deems necessary from the amounts appropriated for that purpose. Those sums may be advanced to the agent when the Director deems that procedure to be in the public interest. Sums for the purchase of controlled substances, professional services, and equipment necessary for enforcement activities and other activities as set forth in this Section shall be advanced to the agent who is to make the purchase from the Professional Regulation Evidence Fund on vouchers signed by the Director. The Director and those agents are authorized to maintain one or more commercial checking accounts with any State banking corporation or corporations organized under or subject to the Illinois Banking Act for the deposit and withdrawal of moneys to be used for the purposes set forth in this Section; provided, that no check may be written nor any withdrawal made from any such account except upon the written signatures of 2 persons designated by the Director to write those checks and make those withdrawals. Vouchers for those expenditures must be signed by the Director. All such expenditures shall be audited by the Director, and the audit

shall be submitted to the Department of Central Management Services for approval.

(d) Whenever the Department is authorized or required by law to consider some aspect of criminal history record information for the purpose of carrying out its statutory powers and responsibilities, then, upon request and payment of fees in conformance with the requirements of Section 2605-400 of the Department of State Police Law (20 ILCS 2605/2605-400), the Department of State Police is authorized to furnish, pursuant to positive identification, the information contained in State files that is necessary to fulfill the request.

(e) The provisions of this Section do not apply to private business and vocational schools as defined by Section 1 of the Private Business and Vocational Schools Act.

(f) Beginning July 1, 1995, this Section does not apply to those professions, trades, and occupations licensed under the Real Estate License Act of 2000, nor does it apply to any permits, certificates, or other authorizations to do business provided for in the Land Sales Registration Act of 1989 or the Illinois Real Estate Time-Share Act.

(g) Notwithstanding anything that may appear in any individual licensing statute or administrative rule, the Department shall deny any license application or renewal authorized under any licensing Act administered by the Department to any person who has failed to file a return, or to pay the tax, penalty, or interest shown in a filed return, or

to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirement of any such tax Act are satisfied; however, the Department may issue a license or renewal if the person has established a satisfactory repayment record as determined by the Illinois Department of Revenue. For the purpose of this Section, "satisfactory repayment record" shall be defined by rule.

In addition, a complaint filed with the Department by the Illinois Department of Revenue that includes a certification, signed by its Director or designee, attesting to the amount of the unpaid tax liability or the years for which a return was not filed, or both, is prima facie evidence of the licensee's failure to comply with the tax laws administered by the Illinois Department of Revenue. Upon receipt of that certification, the Department shall, without a hearing, immediately suspend all licenses held by the licensee. Enforcement of the Department's order shall be stayed for 60 days. The Department shall provide notice of the suspension to the licensee by mailing a copy of the Department's order by certified and regular mail to the licensee's last known address as registered with the Department. The notice shall advise the licensee that the suspension shall be effective 60 days after the issuance of the Department's order unless the Department receives, from the licensee, a request for a hearing before the Department to dispute the matters contained in the order.

Any suspension imposed under this subsection (g) shall be terminated by the Department upon notification from the Illinois Department of Revenue that the licensee is in compliance with all tax laws administered by the Illinois Department of Revenue.

The Department shall promulgate rules for the administration of this subsection (g).

(h) The Department may grant the title "Retired", to be used immediately adjacent to the title of a profession regulated by the Department, to eligible retirees. The use of the title "Retired" shall not constitute representation of current licensure, registration, or certification. Any person without an active license, registration, or certificate in a profession that requires licensure, registration, or certification shall not be permitted to practice that profession.

(i) Within 180 days after the effective date of this amendatory Act of the 96th General Assembly, 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.

(Source: P.A. 94-452, eff. 1-1-06; 94-462, eff. 8-4-05; 95-331, eff. 8-21-07.)

Section 10. The Unified Code of Corrections is amended by changing Sections 5-5.5-5, 5-5.5-15, 5-5.5-25, 5-5.5-30, 5-5.5-35 and 5-5.5-40 as follows:

(730 ILCS 5/5-5.5-5)

Sec. 5-5.5-5. Definitions and rules of construction. In this Article:

"Eligible offender" means a person who has been convicted of a crime that does not include any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act, the Arsonist Registration Act, or the Child Murderer and Violent Offender Against Youth Registration Act, but who has not been convicted more than twice of a felony. "Eligible offender" does not include a person who has been convicted of committing or attempting to commit a Class X felony, aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, aggravated domestic battery, or a forcible felony ~~or of an offense that is not a crime of violence as defined in Section 2 of the Crime Victims Compensation Act, a Class X or a nonprobationable offense, or a~~

~~violation of Article 11 or Article 12 of the Criminal Code of 1961, but who has not been convicted more than twice of a felony.~~

"Felony" means a conviction of a felony in this State, or of an offense in any other jurisdiction for which a sentence to a term of imprisonment in excess of one year, was authorized.

For the purposes of this Article the following rules of construction apply:

(i) two or more convictions of felonies charged in separate counts of one indictment or information shall be deemed to be one conviction;

(ii) two or more convictions of felonies charged in 2 or more indictments or informations, filed in the same court prior to entry of judgment under any of them, shall be deemed to be one conviction; and

(iii) a plea or a verdict of guilty upon which a sentence of probation, conditional discharge, or supervision has been imposed shall be deemed to be a conviction.

"Forcible felony" means first degree murder, second degree murder, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery that resulted in great bodily harm or permanent disability, and any other felony which involved the use of physical force or violence against any individual that resulted in great bodily harm or permanent disability.

(Source: P.A. 93-207, eff. 1-1-04; 94-1067, eff. 8-1-06.)

(730 ILCS 5/5-5.5-15)

Sec. 5-5.5-15. Certificates of relief from disabilities issued by courts.

(a) Any circuit court of this State may, ~~in its discretion,~~ issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in that court if the court imposed the ~~a~~ sentence ~~other than one executed by commitment to an institution under the Department of Corrections.~~ The certificate may be issued (i) at the time sentence is pronounced, in which case it may grant relief from disabilities, or (ii) at any time thereafter, in which case it shall apply only to disabilities.

(b) The certificate may not be issued by the court unless the court is satisfied, based on clear and convincing evidence, that:

(1) the person to whom it is to be granted is an eligible offender, as defined in Section 5-5.5-5;

(2) the relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(3) the relief to be granted by the certificate is consistent with the public interest.

(c) If a certificate of relief from disabilities is not issued at the time sentence is pronounced it shall only be

issued thereafter upon verified application to the court. The court may, for the purpose of determining whether the certificate shall be issued, request the probation or court services department to conduct an investigation of the applicant. Any probation officer requested to make an investigation under this Section shall prepare and submit to the court a written report in accordance with the request.

(d) Any court that has issued a certificate of relief from disabilities may at any time issue a new certificate to enlarge the relief previously granted provided that the provisions of clauses (1) through (3) of subsection (b) of this Section apply to the issuance of any such new certificate.

(e) Any written report submitted to the court under this Section is confidential and may not be made available to any person or public or private agency except if specifically required or permitted by statute or upon specific authorization of the court. However, it shall be made available by the court for examination by the applicant's attorney, or the applicant himself or herself, if he or she has no attorney. In its discretion, the court may except from disclosure a part or parts of the report that are not relevant to the granting of a certificate, or sources of information which have been obtained on a promise of confidentiality, or any other portion of the report, disclosure of which would not be in the interest of justice. The action of the court excepting information from disclosure shall be subject to appellate review. The court, in

its discretion, may hold a conference in open court or in chambers to afford an applicant an opportunity to controvert or to comment upon any portions of the report. The court may also conduct a summary hearing at the conference on any matter relevant to the granting of the application and may take testimony under oath.

(f) An employer is not civilly or criminally liable for an act or omission by an employee who has been issued a certificate of relief from disabilities, except for a willful or wanton act by the employer in hiring the employee who has been issued a certificate of relief from disabilities.

(Source: P.A. 93-207, eff. 1-1-04.)

(730 ILCS 5/5-5.5-25)

Sec. 5-5.5-25. Certificate of good conduct.

(a) A certificate of good conduct may be granted as provided in this Section to relieve an eligible offender of any employment bar. The certificate may be limited to one or more disabilities or bars or may relieve the individual of all disabilities and bars.

Notwithstanding any other provision of law, a certificate of good conduct does not relieve an offender of any employment-related disability imposed by law by reason of his or her conviction of a crime that would prevent his or her employment by the Department of Corrections, Department of Juvenile Justice, or any other law enforcement agency in the

State.

(a-6) ~~(a)~~ 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.

(b) (i) A certificate of good conduct may not, however, in any way prevent any judicial proceeding, administrative, licensing, or other body, board, or authority from considering the conviction specified in the certificate.

(ii) A certificate of good conduct shall not limit or prevent the introduction of evidence of a prior conviction for purposes of impeachment of a witness in a judicial or other proceeding where otherwise authorized by the applicable rules of evidence.

(iii) A certificate of good conduct does not limit the employer from accessing criminal background information; nor does it hide, alter, or expunge the record.

(c) An employer is not civilly or criminally liable for an act or omission by an employee who has been issued a certificate of good conduct, except for a willful or wanton act by the employer in hiring the employee who has been issued a certificate of good conduct.

(Source: P.A. 93-207, eff. 1-1-04.)

Sec. 5-5.5-30. Issuance of certificate of good conduct.

(a) After a rehabilitation review has been held, in a manner designated by the chief judge of the judicial circuit in which the conviction was entered, the Circuit Court of that judicial circuit ~~The Prisoner Review Board, or any 3 members of the Board by unanimous vote,~~ shall have the power to issue a certificate of good conduct to any eligible offender previously convicted of a crime in this State, and shall make a specific finding of rehabilitation with the force and effect of a final judgment on the merits, when the Court ~~Board~~ is satisfied that:

(1) the applicant has conducted himself or herself in a manner warranting the issuance for a minimum period in accordance with the provisions of subsection (c) of this Section;

(2) the relief to be granted by the certificate is consistent with the rehabilitation of the applicant; and

(3) the relief to be granted is consistent with the public interest.

(b) The Circuit Court ~~Prisoner Review Board, or any 3 members of the Board by unanimous vote,~~ shall have the power to issue a certificate of good conduct to any person previously convicted of a crime in any other jurisdiction, when the Court ~~Board~~ is satisfied that:

(1) the applicant has demonstrated that there exist specific facts and circumstances and specific sections of Illinois State law that have an adverse impact on the

applicant and warrant the application for relief to be made in Illinois; and

(2) the provisions of paragraphs (1), (2), and (3) of subsection (a) of this Section have been met.

(c) The minimum period of good conduct by the individual referred to in paragraph (1) of subsection (a) of this Section, shall be as follows: if the most serious crime of which the individual was convicted is a misdemeanor, the minimum period of good conduct shall be one year; if the most serious crime of which the individual was convicted is a Class 1, 2, 3, or 4 felony, the minimum period of good conduct shall be 3 years. Criminal acts committed outside the State shall be classified as acts committed within the State based on the maximum sentence that could have been imposed based upon the conviction under the laws of the foreign jurisdiction. The minimum period of good conduct by the individual shall be measured either from the date of the payment of any fine imposed upon him or her, or from the date of his or her release from custody by parole, mandatory supervised release or commutation or termination of his or her sentence. The Circuit Court Board shall have power and it shall be its duty to investigate all persons when the application is made and to grant or deny the same within a reasonable time after the making of the application.

(d) If the Circuit Court Prisoner Review Board has issued a certificate of good conduct, the Court Board may at any time issue a new certificate enlarging the relief previously

granted.

(e) Any certificate of good conduct issued by the Court ~~Prisoner Review Board~~ to an individual who at the time of the issuance of the certificate is under the conditions of parole or mandatory supervised release imposed by the Prisoner Review Board shall be deemed to be a temporary certificate until the time as the individual is discharged from the terms of parole or mandatory supervised release, and, while temporary, the certificate may be revoked by the Court ~~Board~~ for violation of the conditions of parole or mandatory supervised release. Revocation shall be upon notice to the parolee or releasee, who shall be accorded an opportunity to explain the violation prior to a decision on the revocation. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the offender's parole or mandatory supervised release term.

(f) The Court shall, upon notice to a certificate holder, have the power to revoke a certificate of good conduct upon a subsequent conviction.

(Source: P.A. 93-207, eff. 1-1-04.)

(730 ILCS 5/5-5.5-35)

Sec. 5-5.5-35. Effect of revocation; use of revoked certificate.

(a) If a certificate of relief from disabilities is deemed to be temporary and the certificate is revoked, disabilities

and forfeitures thereby relieved shall be reinstated as of the date upon which the person to whom the certificate was issued receives written notice of the revocation. Any such person shall upon receipt of the notice surrender the certificate to the issuing court ~~or Board~~.

(b) A person who knowingly uses or attempts to use a revoked certificate of relief from disabilities in order to obtain or to exercise any right or privilege that he or she would not be entitled to obtain or to exercise without a valid certificate is guilty of a Class A misdemeanor.

(Source: P.A. 93-207, eff. 1-1-04.)

(730 ILCS 5/5-5.5-40)

Sec. 5-5.5-40. Forms and filing.

(a) All applications, certificates, and orders of revocation necessary for the purposes of this Article shall be upon forms prescribed ~~by under an agreement among the Director of Corrections and the Chairman of the Prisoner Review Board and~~ the Chief Justice of the Supreme Court or his or her designee. The forms relating to certificates of relief from disabilities and certificates of good conduct shall be distributed by the Director of the Division of Probation Services ~~and forms relating to certificates of good conduct shall be distributed by the Chairman of the Prisoner Review Board.~~

(b) Any court or board issuing or revoking any certificate

under this Article shall immediately file a copy of the certificate or of the order of revocation with the Director of State Police.

(Source: P.A. 93-207, eff. 1-1-04.)

(730 ILCS 5/5-5.5-20 rep.)

Section 15. The Unified Code of Corrections is amended by repealing Section 5-5.5-20.

Section 99. Effective date. This Act takes effect upon becoming law, except that Sections 10 and 15 take effect January 1, 2010.