

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 46

December 16, 2022

Issue 51

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ FINANCIAL INSTITUTIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed new Parts titled Credit Union Community Reinvestment (38 IAC 185; 46 Ill Reg 19726), Bank Community Reinvestment (38 IAC 345; 46 Ill Reg 19794) and Mortgage Community Reinvestment (38 IAC 1055; 46 Ill Reg 19862) and proposed an amendment to the Part titled Rules Governing the Request for Reconsideration of Examination Findings (38 IAC 385; 46 Ill Reg 19856), all implementing Public Act 101-657, the Illinois Community Reinvestment Act (ILCRA). The ILCRA and these rules are intended to ensure that regulated financial institutions equitably provide financial services to individuals and businesses in low-income (less than 50% of an area's median income) and moderate-income

(50% to 80% of area median income) neighborhoods and in areas that lack access to safe and affordable banking/lending services. The new Parts apply to credit unions, banks and mortgage lenders licensed under the Residential Mortgage License Act of 1987 that have originated or lent 50 or more mortgage loans in the previous calendar year and are not

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subject to the federal Community Reinvestment Act. The new Parts 185, 345 and 1055 require DFPR to periodically evaluate how these credit unions, banks and mortgage lenders are performing with regard to community development, which includes activities that: support affordable housing; finance small businesses or farms with gross annual revenues of \$1 million or

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Adopted Rules

SENTENCE CREDIT

The DEPARTMENT OF CORRECTIONS adopted amendments to the Part titled Records of Offenders (20 IAC 107; 45 Ill Reg 14753) effective 11/29/22, concerning earned program sentence credit for individuals in DOC custody who complete certain approved programs. The rulemaking adds self-improvement programs, approved volunteer activities, work assignments and work release programming to the list of programs for which individuals in custody (formerly, "offenders") may receive earned program sentence credit at the discretion of DOC. The maximum credit is 365 days for persons serving sentences of 5 years or more and 180 days for persons serving sentences of less than 5 years (formerly, 180 days regardless of sentence length).

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
 ■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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Persons enrolled full time in work release, substance abuse programs, Correctional Industries assignments, academic or vocational education programs, behavior modification programs, life skills courses, or re-entry planning on or after 1/1/18 will earn one day of credit (formerly, ½ day) for each program day completed. Persons enrolled in full-time self-improvement programs, volunteer activities, or work assignments provided or approved by DOC on or after 7/1/21 earn ½ day credit for each program day completed if they meet specified eligibility requirements. The rulemaking also sets criteria for counting programs as full time; grants 120 days credit for completion of an associate degree; and grants 180 days credit for completion of higher education beyond an associate degree. Since 1st Notice, DOC changed references to General Education Development (GED) classes and certificates to “high school equivalency”.

WORK RELEASE

DOC also adopted amendments to the Part titled Work Release Programs (20 IAC 455; 45 Ill Reg 15174) effective 12/3/22, concerning the eligibility of persons in DOC custody to transfer to work release programs. To qualify for placement in a work release program, an individual in custody (formerly, “committed person”) must have 2 to 30 months (formerly, 2 months to 2 years) remaining of his or her sentence for a pre-release assignment and

be within 3 years of release for a temporary work assignment; be classified as minimum security; complete a positive risk and needs assessment; have no record of escape attempts and no active orders of protection; and receive medical and mental health clearance within 30 days prior to a pre-release placement. All outstanding felony warrants or criminal detainers must be reviewed on a case by case basis prior to placement; however, placement shall not be denied based on civil immigration detainers or warrants. Since 1st Notice, DOC removed provisions limiting the length of time that persons who were involved in organized crime or convicted of large scale narcotics trafficking can be disqualified from work release placement; the existing permanent disqualification has been retained.

Questions/requests for copies of the 2 DOC rulemakings: Kess Roberson, DOC, 1301 Concordia Court, P. O. Box 19277, Springfield, IL 62794 9277, 217/558-2200, ext. 6506, Kess.Roberson@illinois.gov.

■ OIL & GAS

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled The Illinois Oil and Gas Act (62 IAC 240; 46 Ill Reg 14169) effective 1/1/23, implementing Public Act 102-1017. The rulemaking raises the application fees for production well and Class II UIC well drilling permits from \$300 to \$400 and liquid oilfield

waste transportation vehicle permits from \$100 to \$150 per vehicle. It also adds a \$150 application fee for lease road oiling permits. The rulemaking also clarifies the conditions under which wells not used within the past 2 years can be placed in temporary abandonment status, as well as the conditions under which temporary abandonment status can be revoked. Effective 1/1/23, wells may remain in temporary abandonment status for 5 years at a time, renewable for additional 5-year periods provided that all requirements are met, and subject to a \$100 annual fee each year the well remains temporarily abandoned. In order to renew temporary abandonment status, the holder of the permit for a temporarily abandoned well must submit legitimate geological, engineering, or economic evidence that the well remains viable for future oil and gas development if needed. Businesses with oil and gas well drilling permits are affected.

Questions/requests for copies: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

■ VITAL RECORDS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Illinois Vital Records Code (77 IAC 500; 46 Ill Reg 11400) effective 11/30/22 that add and clarify various definitions, including defining “civil union” and “marriage” as

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Proposed Rulemakings

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less; revitalize or stabilize areas of high poverty or unemployment or disaster-stricken areas; mitigate environmental harm or encourage climate resilience in low-income areas; or provide community services to low- and moderate-income persons. Initial evaluations will begin 6 months after these rules take effect and continue for the next 6 years, with larger institutions being evaluated first. Activities DFPR will consider in its evaluations include the institution's participation in qualified investments such as small business and farm loans; technical assistance to small businesses, farms and non-profits to help them establish creditworthiness; contributions to private, non-profit community development/improvement organizations; contributions to disaster relief or recovery efforts in any part of the State; provision of low-cost education loans to low-income borrowers; marketing and outreach to unbanked individuals (who have no savings or checking accounts with depository institutions) and underbanked individuals (who have such accounts but have resorted to financial services from entities other than depository institutions, e.g., short-term consumer lenders); and activities in cooperation with minority- and women-owned financial institutions. Performance standards for small banks and credit unions, limited or special purpose institutions (banks and credit unions that provide only

Emergency Rules

TURKEY HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted an emergency amendment to The Taking of Wild Turkeys - Spring Season (17 IAC 710; 46 Ill Reg 20083) effective 11/29/22 for a maximum of 150 days. The emergency amendment extends the deadlines for spring turkey hunting permit applications as follows: first lottery drawing (open to Illinois residents only), to 12/8/22 (was 12/1); second lottery drawing, to 1/18/23 (was 1/10); third lottery drawing, to 2/17/23 (was 2/8). DNR states that its online permit application system for spring turkey hunting permits was recently unavailable for a week, which prevented applicants from submitting applications in a timely manner.

Questions/requests for copies: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

UNIVERSITY POLICE

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted emergency amendments to the Part titled State Universities Civil Service System (80 IAC 250; 46

Ill Reg 20093) effective 12/1/22 for a maximum of 150 days. The emergency amendments allow State universities to hire as campus police officers persons who have been employed as sworn police officers within the past 24 months and have requested placement on a transfer list of candidates for campus police positions. (Formerly, only current municipal, county or State police officers could be placed on and hired from a transfer list.) Candidates who are not currently serving on another police force must have, or be eligible to receive, certification from the Law Enforcement Training and Standards Board and must pass screening and background investigations which may include fingerprinting, police records checks, credit checks, and inquiries of neighbors, relatives and employers. The emergency rule also limits the number of campus police vacancies that can be filled by these candidates during any 24-month period.

Questions/requests for copies: Gail Schiesser, SUCSS, 1717 Philo Road, Suite 24, Urbana IL 61802, 217/278-3150, rulemaking@sucss.illinois.gov

certain services, e.g., vehicle loans or credit cards) and other institutions are outlined, along with the data and reports that each institution must provide. After completing an evaluation, DFPR

will assign each institution a rating of Outstanding, Satisfactory (for banks, High or Low Satisfactory), Needs to Improve, or Substantial

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Adopted Rules

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synonymous for purposes of this Part. The rulemaking clarifies who may access vital records and the purposes for which certain vital records may be made available to public health authorities or for research purposes. It also waives the \$10 fee for birth record searches and certified birth record copies requested by persons released from Department of Corrections or Department of Juvenile Justice custody, homeless persons, and persons who are or were formerly wards of the Department of Children and Family Services. Other provisions clarify procedures for obtaining a permit to disinter a dead human body or to donate a body to science; require coroners and medical examiners to report overdose deaths to DPH, and when possible to report the cause of the overdose; and require those completing medical certification of a death record to report the presence of antibiotic-resistant bacteria. Those affected by this rulemaking include hospitals, coroners/medical examiners, and persons seeking vital records.

Proposed Rulemakings

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Noncompliance. The institution must provide public notice of this rating and the results of the evaluation. Reevaluations will be conducted at intervals of 3 to 5 years for institutions rated Outstanding or Satisfactory, 2 years for those rated as Needs to Improve, and 1 year for those rated

■ STI TREATMENT

DPH also adopted amendments to Control of Sexually Transmissible Infections Code (77 IAC 693; 46 Ill Reg 11680) effective 12/2/22, expanding the list of sexually transmissible infections (STIs) for which expedited partner therapy can be administered to include trichomoniasis (trich). (Expedited partner therapy allows a health care professional who diagnoses an STI to prescribe, dispense, or otherwise provide prescription antibiotics to the patient's sexual partner or partners without requiring the partner to be physically examined, if the health care professional determines that the partner is unlikely or unable to present for examination or treatment.) The rulemaking also replaces the term "early latent" syphilis with "early non-primary non-secondary" or "NPNS". Finally, the rulemaking requires pregnancy status to be reported in electronic laboratory reporting if that information is available. Local health departments and clinics that provide STI examinations and treatment are affected.

in Substantial Noncompliance. The performance record of the institution or its parent entity (including any subsidiaries) will be taken into account whenever DFPR considers an application to establish or relocate a main office or branch, or to renew or reorganize that institution. Finally, the amendment to Part 385 adds savings banks to the definition of

Questions/requests for copies of the 2 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, 217/782-1159, dph.rules@illinois.gov

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Temporary Assistance for Needy Families (89 IAC 112; 46 Ill Reg 13620) effective 12/1/22 establishing monthly payment levels for the 2023 federal fiscal year. Child-only payment levels are raised from \$242 to \$255 for 1 child, \$326 to \$344 for 2 children, \$412 to \$432 for 3 children, etc. Payments for both caretaker relatives and children are raised from \$322 to \$340 for 1 child plus a caretaker; \$435 to \$458 for 2 children; \$549 to \$576 for 3 children, etc.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

a regulated financial institution and includes the ILCRA ratings assigned to State banks in the definition of a material supervisory determination. Those affected include credit unions, banks, mortgage lenders, and small businesses or non-profits that use or seek their services.

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Proposed Rulemakings

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Questions/requests for copies/ comments on the 4 DFPR rulemakings through 1/30/22: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0810, fax 217/557-4451.

■ ABUSE INVESTIGATIONS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 IAC 50; 46 Ill Reg 19895) that include financial exploitation among the allegations that the DHS Office of Inspector General will investigate when made against employees of a community-based agency or State institution that provides services to persons with disabilities. Each community agency must designate an employee to serve as a liaison with the DHS OIG. The rulemaking clarifies various aspects of the OIG's investigation and determination process, including: the circumstances in which the OIG may allow a community agency or facility to address allegations on its own (e.g., when there is no indication that any individual is in imminent danger and the allegation would not, if upheld, have to be reported to the Department of Public Health's Health Care Worker Registry); the findings that must be reported to the Registry; when an accused employee may return to work if an allegation is

likely to be deemed unsubstantiated or unfounded; and that personal information concerning an employee or recipient is protected from disclosure except as necessary to complete reporting to the Registry or other required reporting to investigatory, law enforcement, or licensing authorities. The rulemaking also clarifies that authorized representatives may take action to protect residents or patients to ensure compliance with DPH's standards for Intermediate Care Facilities for the Developmentally Disabled (ICF/DDs). Community agencies and facilities serving persons with disabilities are affected by this rulemaking.

Questions/requests for copies/ comments through 1/30/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

■ SEXUAL ASSAULT

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 46 Ill Reg 19933) implementing PA102-1097, which allows federally qualified health centers (FQHCs) to provide medical forensic services to sexual assault survivors in accordance with DPH-approved treatment plans. An FQHC can provide medical forensic services (e.g., collection of evidence, photo or other documentation of the assault, treatment for injuries,

evaluation of risk for sexually transmitted infection or pregnancy) to sexual assault survivors age 13 and older if it employs or contracts with a qualified medical provider so that medical forensic services can be initiated within 90 minutes after a survivor has presented for treatment. Staff that provide clinical services to sexual assault survivors, if they are not already qualified medical providers, must complete at least 2 hours of sexual assault training by 12/16/22 or within 6 months after being hired, and must complete 2 hours of continuing education on sexual assault every 2 years. This training must address, among other topics, proper use of the Illinois State Police Sexual Assault Evidence Collection Kit. The rulemaking also extends to 1/1/23 (currently, 1/1/22) the deadline for hospitals with sexual assault treatment plans to employ or contract with qualified medical providers, and allows any health care professional, ambulance provider, laboratory or pharmacy to bill the Department of Healthcare and Family Services for services provided to a sexual assault survivor. Federally qualified health centers are affected by this rulemaking.

Questions/requests for copies/ comments through 1/30/23: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, 217/782-1159, dph.rules@illinois.gov.

JCAR Meeting Action

At its 12/13/22 meeting, the Joint Committee on Administrative Rules approved the following actions:

RECOMMENDATIONS

With respect to the Department of Financial and Professional Regulation rulemaking titled Environmental Health Practitioner Licensing Act (68 IAC 1247; 46 Ill Reg 11067), JCAR recommends the Department be more timely in implementing statute. Section 35(a)(8) of the Environmental Health Practitioner Licensing Act [225 ILCS 37] permits the Department to discipline a licensee for dishonorable, unethical or unprofessional conduct as defined by Department rules. This provision has been in statute since at least June 30, 1995.

With respect to the Illinois Emergency Management Agency emergency rule titled State Not-For-Profit Security Grant Program (29 IAC 120; 46 Ill. Reg. 18882), JCAR recommends that the Agency specify in the permanent version of these rules all supplemental policies related to grantee eligibility and selection criteria that it is currently specifying in the Notice of Funding Opportunity for this program. Sec. 1-70 of the Illinois Administrative Procedure Act requires each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy and affects private rights or procedures available to persons or entities outside the agency to be in rule.

With respect to the Department of Public Health's emergency rule titled Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 IAC 515; 46 Ill Reg 17682), JCAR recommends that the Department avoid exercising its authority to adopt repeat emergency rules under Sec. 5-45(c) of the IAPA and Secs. 2(a) through (i) of the Department of Public Health Act simply to avoid regulatory gaps prior to the adoption of a permanent rulemaking.

EXTENSIONS

JCAR and the respective agencies agreed to extend the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the January 10, 2023 meeting.

Department of Financial and Professional Regulation, Illinois Dental Practice Act (68 IAC 1220; 46 Ill Reg 3903)

Department of Insurance, Insurance Department Consumer Complaints (50 IAC 926; 46 Ill Reg 14838) and Suitability in Annuity Transactions (50 IAC 3120; 46 Ill Reg 15424)

Secretary of State, Notary Public Records (14 IAC 176; 46 Ill Reg 5874)

POSTPONEMENT

JCAR postponed action on the Department of Commerce and Economic Opportunity rulemaking titled Back to Business Grant Program (14 IAC 691; 46 Ill Reg 11024), which is on an extended Second Notice, until the January 10 meeting.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will appear in next week's *Illinois Register* and be considered at the January 10, 2023, meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF COMMERCE & ECONOMIC OPPORTUNITY

Illinois Film Production Service Tax Credit Program (14 IAC 528; 46 Ill Reg 16650) proposed 10/7/22

IL COMMUNITY COLLEGE BOARD

Administration of the Illinois Public Community College Act (23 IAC 1501; 46 Ill Reg 11626) proposed 7/15/22

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 46 Ill Reg 14742) proposed 9/2/22

DEPT OF INSURANCE

Licensing of Public Adjusters (50 IAC 3118; 46 Ill Reg 9467) proposed 6/10/22

Arson Fraud Detection Reporting System (Repealer) (50 IAC 2303; 46 Ill Reg 11673) proposed 7/15/22

DEPT OF PUBLIC HEALTH

Assisted Living and Shared Housing Establishment Code (77 IAC 295; 46 Ill Reg 14406) proposed 8/19/22

STATE POLICE MERIT BOARD

Procedures of the Department of State Police Merit Board (80 IAC 150; 46 Ill Reg 8066) proposed 5/20/22

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