

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

PRISON SENTENCES

The DEPARTMENT OF CORRECTIONS proposed an amendment to the Part titled Records of Offenders (20 IAAC 107; 49 Ill Reg 2387) clarifying eligibility for earned discretionary sentence credit. The rulemaking reflects the Unified Code of Corrections, which excludes persons serving sentences for first degree murder committed on or after 6/19/98 from eligibility from earned discretionary sentence credit. The rulemaking clarifies that persons serving sentences for first degree murder committed prior to 6/19/98 remain eligible for earned discretionary sentence credit.

Questions/requests for copies/comments through 4/21/25: Glen Austin, DOC, 1301 Concordia Court, PO Box 19277, Springfield IL 62794 9277, 217-786-6904, DOC.ProposedRulemaking@illinois.gov

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MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Assistance Programs (89 IAC 120; 49 Ill Reg 2395) implementing a change in federal Medicaid rules. The rulemaking removes a requirement that Medicaid

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customers and applicants also apply for other benefits available to them (e.g., pensions, annuities, retirement funds, disability) as a condition of Medicaid eligibility.

Questions/requests for copies/comments through 4/21/25: Kathy Muse, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

AABD BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Aid to the Aged, Blind or Disabled (89 IAC 113; 49 Ill Reg 2411) increasing the AABD adjustment allowance (amount of Supplemental Security Income (SSI) that a recipient may keep) and the AABD sheltered, personal and nursing care rates by \$24 per month to match the amount of the 2025 SSI benefit increase. The adjustment allowance is now \$788.90 (currently \$764.90) per month.

Questions/requests for copies/comments through 4/21/25: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days. **PROPOSED RULEMAKINGS:** Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days. **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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

JCAR Meeting Action

At its March 4, 2025 meeting in Springfield, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings not listed below received No Objection and may now be adopted by their agencies. Emergency or peremptory rules not acted upon at this meeting may be reconsidered at future meetings.

RECOMMENDATION

With regard to the Pollution Control Board rulemaking titled Groundwater Quality (35 IAC 620; 48 Ill Reg 4608) JCAR recommended that the Board assess the makeup of potentially impacted parties under each pending rulemaking and approach its obligation to consider the "economic reasonableness" of its rulemakings by engaging substantively and specifically with concerns raised by commenters, rather than by relying exclusively on its past practice. Section 27 of the Environmental Protection Act requires the Board to consider the "technical feasibility and economic reasonableness" of each rulemaking before it. During this rulemaking's lengthy docket process prior to first notice, commenters repeatedly asserted that the proposed groundwater quality standards would have an adverse economic impact, particularly on landfills, since 35 Ill. Adm. Code 620 groundwater quality standards are cross-referenced in 35 Ill. Adm. Code 811 and 814, which regulate landfills. The Board did not respond to this point substantively, instead just asserting that compliance costs in general cannot be considered as following from numeric standards, since rules governing specific remediation programs must be amended before compliance costs are incurred. Only after JCAR sent the Board a letter outlining the inadequacy of its economic analysis did the Board acknowledge that the proposed standards could have an economic impact on landfills prior to any subsequent rulemaking.

FAILURE TO REMEDY

JCAR issued a Notice of Failure to Remedy with regard to the Department of Healthcare and Family Services' response to the Committee's Objection to rules titled Hospital Services (89 IAC 148; 48 Ill Reg 15982). The Department states it made every attempt to file and adopt rules expeditiously to implement the Safety-Net Obstetrical Program. However, the Committee finds

the Department acted with neither speed nor efficiency when it: 1) waited nearly 1 year after Public Act 102-4 became law to submit a State Plan Amendment implementing the Safety Net Obstetrical Payments program; 2) waited another 7 months after obtaining State Plan Amendment approval to file proposed rules; and 3) waited another 11 months after filing proposed rules to move those rules to Second Notice. This timeline of events does not demonstrate that every attempt was made to file and adopt rules expeditiously.

EXTENSIONS

JCAR, with the concurrence of the listed agencies, has extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the April 8 meeting.

Department of Children and Family Services, Services Delivered by the Department of Children and Family Services (89 IAC 302; 48 Ill Reg 16617)

Department of Financial and Professional Regulation, Nurse Practice Act (68 IAC 1300; 48 Ill Reg 13019)

Department of Labor, Nurse Agency Licensing Act (68 IAC 690; 48 Ill Reg 6519)

Department of Revenue, Income Tax (86 IAC 100; 48 Ill Reg 17689)

POSTPONEMENTS

JCAR has postponed action on the following rulemakings, which are on extended Second Notice, until the April 8 meeting:

Department of Commerce and Economic Opportunity, Illinois Works Jobs Program Act (14 IAC 680; 48 Ill Reg 10489)

Law Enforcement Training and Standards Board, Rules of Procedure in Administrative Hearings (20 IAC 1790; 48 Ill Reg 14491)

Adopted Rules

HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled Duck, Goose and Coot Hunting (17 IAC 590; proposed at 48 Ill Reg 13070), White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; proposed at 48 Ill Reg 13084), and Dove Hunting (17 IAC 730; proposed at 48 Ill Reg 13104), all effective 2/19/25 at 49 Ill Reg 2437, 2451 and 2471, making site-specific updates. The Part 590 rulemaking establishes the hunting season for Clinton Lake State Recreation Area as every Tuesday, Thursday and Saturday of the regular Central Zone duck hunting season (previously, duck and Canada goose season). Amendments to Part 670 add the Annbriar Karst State Natural Area, Guthrie Cave Land and Water Reserve, Mill Creek State Natural Area, Ralph Clover State Natural Area, and Illinois Caverns State Natural Area to the list of sites where statewide archery deer hunting rules apply. The Part 730 rulemaking clarifies that dove hunting at Moraine View State Park is limited to the dove management fields and to the hours of noon to 5 p.m. from Sept. 1-5 and sunrise to sunset from Sept. 6-Oct. 15.

• CONSERVATION GRANTS

DNR also adopted a new Part titled Youth and Young Adult Conservation and Education Pilot Program (17 IAC 3085; proposed at 48 Ill Reg 14516) effective 2/19/25 at 49 Ill Reg 2488, implementing Public Act 103-788, effective 1/1/25. The PA and the new Part institute a grant program for units of local government or non-profit entities that currently provide a conservation education or conservation internship program to youth and young adults (ages 15 through 25). Grant recipients shall work with and provide guidance to

DNR in the creation of a statewide youth conservation education/internship program. Factors DNR will consider when awarding grants include: the grantee's documented commitment to addressing barriers to employment of youth from disadvantaged communities (including but not limited to rural communities, impoverished communities, and historically marginalized communities); the grantee's commitment to environmental stewardship and civic responsibility; the grantee's ability to focus on enhancement of DNR-owned lands or enhancing DNR projects; and equitable geographic distribution of grants throughout the State. Costs that will be covered by the grant will be set forth in the grant agreement with DNR. Internships and educational opportunities funded by the grant must be within a reasonable commuting time for participants (no more than 1 ½ hours, unless the participant voluntarily agrees to a longer travel time) and participants must be paid at least the State minimum wage and work normal working hours. Since 1st Notice, DNR has clarified that these grants are subject to the Grant Accountability and Transparency Act; changed references to "job training" to "employment opportunities"; specified rule language that is statutory; and clarified other aspects of the grant application and award process. Units of local government and non-profit entities are affected.

Questions/requests for copies/comments on the 4 DNR rulemakings: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217-782-1809, dnr.rules@illinois.gov

DRIVERS' LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; proposed at 48 Ill Reg 13327) effective 2/19/25 at 49 Ill Reg 2497, implementing PA 103-782. This rulemaking expands an existing program through which SOS issues identification cards to individuals upon release from a Department of Corrections institution or Department of Juvenile Justice facility to also include individuals released from federal prisons located in Illinois and Illinois county jails. It also streamlines the documentation requirements for those individuals who have previously held a driver's license or identification card and individuals who have not previously held an Illinois credential but can provide a certified birth certificate.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 217-785-3094, pwright@ilsos.gov

• REAL ESTATE APPRAISAL

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted an amendment to Real Estate Appraiser Licensing (68 IAC 1455; proposed at 48 Ill Reg 15174) effective 2/21/25 at 49 Ill Reg 2423, implementing a recent change to federal guidelines. For continuing education providers seeking renewal of their licenses to provide various training courses for appraisers, this rulemaking removes exceptions from licensing application fees that had been granted for the 15-hour National Uniform Standards of Professional Appraisal Practice (USPAP) Course, the 7-hour National USPAP Update Course

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Adopted Rules

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and the 7-hour National USPAP Continuing Education Course. Entities providing CE for real estate appraisers are affected.

• SURGICAL ASSISTANTS

DFPR also adopted amendments to the Part titled Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 IAC 1485; proposed at 48 Ill Reg 14228) effective 2/21/25 at 49 Ill Reg 2432, that require surgical assistants to have graduated from a program approved by the Commission on Accreditation of Allied Health Care Programs (previously, National Surgical Assistant Association) and remove provisions allowing verified

surgical assisting experience to be accepted in place of graduation from an approved education program. Surgical assistants and their employers are affected.

Questions/requests for copies/of the 2 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted an amendment to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; proposed at 48 Ill Reg 16768) effective 2/20/25 at 49 Ill Reg 2543, that codifies SERS' procedure for dividing a survivor's annuity benefit payment

when there are multiple eligible survivors of a deceased Tier 1 member. (Procedures for dividing survivor's annuity benefits of Tier 2 members are already in rule.) If an eligible spouse and one child survive, the survivor's annuity will be split 50-50 between them. If an eligible spouse and 2 children survive, the spouse will receive 37.5% of the survivor's annuity and each child will receive 31.25%. Formulas for determining each person's share of the survivor's annuity when a spouse and 3 or more children survive are also included.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217-524-8105, fax 217-557-3943, jeff.houch@srs.illinois.gov

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 be considered at the April 8, 2025 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF COMMERCE AND ECONOMIC OPPORTUNITY

Energy Transition Navigators Program (14 IAC 820; 48 Ill Reg 10512) proposed 7/19/24

Returning Residents Clean Jobs Training Program (14 IAC 830; 48 Ill Reg 10534) proposed 7/19/24

Clean Jobs Workforce Network Program (14 IAC 840; 48 Ill Reg 10564) proposed 7/19/24

Illinois Climate Works Pre-Apprenticeship Program (14 IAC 850; 48 Ill Reg 10592) proposed 7/19/24

Next JCAR Meeting: Tuesday, April 8, 10:30 a.m.

Room C-1, Stratton Bldg., 401 S. Spring St., Springfield
Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Napoleon Harris, III
Senator Sally Turner

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

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