**Section 385.APPENDIX A Criminal Convictions Preventing Licensure, Employment, Residence in a Family Home in Which a Child Care Facility Operates, or Placement with Relatives**

*No applicant may receive a license from the Department, and no person may be employed by a child care facility licensed by the Department, who has been declared a sexually dangerous person under the Sexually Dangerous Persons Act* [725 ILCS 205, Art. 105] *or convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961 or the Criminal Code of 2012:*

**Lifetime Bars (Non-Waivable)**

*(1) murder;*

*(1.1) solicitation of murder;*

*(1.2) solicitation of murder for hire;*

*(1.3) intentional homicide of an unborn child;*

*(1.4) voluntary manslaughter of an unborn child;*

*(1.5) involuntary manslaughter;*

*(1.6) reckless homicide;*

*(1.7) concealment of a homicidal death;*

*(1.8) involuntary manslaughter of an unborn child;*

*(1.9) reckless homicide of an unborn child;*

*(1.10) drug-induced homicide;*

*(2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, 11-13, 11-35, 11-40, and 11-45;*

*(3) kidnapping;*

*(3.1) aggravated unlawful restraint;*

*(3.2) forcible detention;*

*(3.3) harboring a runaway;*

*(3.4) aiding and abetting child abduction;*

*(4) aggravated kidnapping;*

*(5) child abduction;*

*(6) aggravated battery of a child as described in Section 12-4.3 or 12-3.05(b)(1);*

*(7) criminal sexual assault;*

*(8) aggravated criminal sexual assault;*

*(8.1) predatory criminal sexual assault of a child;*

*(9) criminal sexual abuse;*

*(10) aggravated sexual abuse;*

*(11) heinous battery as described in Section 12-4.1 or Section 12-3.05(a)(2);*

*(12) aggravated battery with a firearm as described in Section 12-4.2 or Section 12-3.05(e)(1), (e)(2), (e)(3), or (e)(4);*

*(13) tampering with food, drugs, or cosmetics;*

*(14) drug induced infliction of great bodily harm as described in Section 12-4.7 or Section 12-3.05(g)(1);*

*(15) hate crime;*

*(16) stalking;*

*(17) aggravated stalking;*

*(18) threatening public officials;*

*(19) home invasion;*

*(20) vehicular invasion;*

*(21) criminal transmission of HIV;*

*(22) criminal abuse or neglect of an elderly person or person with a disability as described in Section 12-21 or Section 12-4.4a(e);*

*(23) child abandonment;*

*(24) endangering the life or health of a child;*

*(25) ritual mutilation;*

*(26) ritualized abuse of a child;*

*(27) an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the offenses listed in this section.* [225 ILCS 10/4.2(b)]

**Financial-type Crimes**

*Effective July 19, 2019, for applicants with access to confidential financial information or who submit documentation to support billing, the Department may, in its discretion, deny or refuse to renew a license to an applicant who has been convicted of committing or attempting to commit any of the following felony offenses:*

*(1) financial institution fraud under Section 17-10.6 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(2) identity theft under Section 16-30 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(3) financial exploitation of an elderly person or a person with a disability under Section 17-56 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(4) computer tampering under Section 17-51 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(5) aggravated computer tampering under Section 17-52 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(6) computer fraud under Section 17-50 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(7) deceptive practices under Section 17-1 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(8) forgery under Section 17-3 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(9) State benefits fraud under Section 17-6 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(10) mail fraud and wire fraud under Section 17-24 of the Criminal Code of 1961 or the Criminal Code of 2012;*

*(11) theft under Section 16-1(b)(1.1) through (11) of the Criminal Code of 1961 or the Criminal Code of 2012.* [225 ILCS 10/4.2(b-1.5)]

**Waivable Bars (Not Including Foster Homes)**

*No new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses (unless waived as provided in this section):*

*(I) BODILY HARM*

*(1) Felony aggravated assault;*

*(2) Vehicular endangerment;*

*(3) Felony domestic battery;*

*(4) Aggravated battery;*

*(5) Heinous battery;*

*(6) Aggravated battery with a firearm;*

*(7) Aggravated battery of an unborn child;*

*(8) Aggravated battery of a senior citizen;*

*(9) Intimidation;*

*(10) Compelling organization membership of persons;*

*(11) Abuse and criminal neglect of a long term care facility resident;*

*(12) Felony violation of an order of protection.*

*(II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY*

*(1) Felony unlawful use of weapons;*

*(2) Aggravated discharge of a firearm;*

*(3) Reckless discharge of a firearm;*

*(4) Unlawful use of metal piercing bullets;*

*(5) Unlawful sale or delivery of firearms on the premises of any school;*

*(6) Disarming a police officer;*

*(7) Obstructing justice;*

*(8) Concealing or aiding a fugitive;*

*(9) Armed violence;*

*(10) Felony contributing to the criminal delinquency of a juvenile.*

*(III) DRUG OFFENSES*

*(1) Possession of more than 30 grams of cannabis;*

*(2) Manufacture of more than 10 grams of cannabis;*

*(3) Cannabis trafficking;*

*(4) Delivery of cannabis on school grounds;*

*(5) Unauthorized production of more than 5 cannabis sativa plants;*

*(6) Calculated criminal cannabis conspiracy;*

*(7) Unauthorized manufacture or delivery of controlled substances;*

*(8) Controlled substance trafficking;*

*(9) Manufacture, distribution, or advertisement of look-alike substances;*

*(10) Calculated criminal drug conspiracy;*

*(11) Street gang criminal drug conspiracy;*

*(12) Permitting unlawful use of a building;*

*(13) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property;*

*(14) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances;*

*(15) Delivery of controlled substances;*

*(16) Sale or delivery of drug paraphernalia;*

*(17) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection;*

*(18) Any violation of the Methamphetamine Control and Community Protection Act* [720 ILCS 646].[225 ILCS 10/4.2(b-1)]

For the offenses described in Waivable Bars (Not Including Foster Homes), *the Department may make an exception and, for child care facilities other than foster family homes, issue a new child care facility license to, or renew the existing child care facility license of, an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility*, provided that all of the following requirements are met:

*(1) The relevant offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of the application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense;*

*(2) The Department conducts a background check and assesses all convictions and recommendations of the child care facility to determine if hiring or licensing the applicant is in accordance with Department administrative rules and procedures; and*

*(3) The applicant meets all other requirements and qualifications* for licensure. [225 ILCS 10/4.2(b-2)]

*In evaluating whether to grant the exception, the Department must carefully review any relevant documents to determine whether the applicant, despite the disqualifying convictions, poses a substantial risk to State resources or clients. In making this determination, the following guidelines shall be used:*

*(1) the age of the applicant when the offense was committed;*

*(2) the circumstances surrounding the offense;*

*(3) the length of time since the conviction;*

*(4) the specific duties and responsibilities necessarily related to the license being applied for and the bearing, if any, that the applicant's conviction history may have on his or her fitness to perform these duties and responsibilities;*

*(5) the applicant's employment references;*

*(6) the applicant's character references and any certificates of achievement;*

*(7) an academic transcript showing educational attainment since the disqualifying conviction;*

*(8) a Certificate of Relief from Disabilities or Certificate of Good Conduct; and*

*(9) anything else that speaks to the applicant's character.* [225 ILCS 10/4.2(e)]

**Additional Foster Home Restrictions**

*No applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Criminal Code of 2012, the Cannabis Control Act* [720 ILCS 550]*, the Methamphetamine Control and Community Protection Act, and the Illinois Controlled Substances Act* [725 ILCS 70]*:*

*(I) OFFENSES DIRECTED AGAINST THE PERSON*

*(A) KIDNAPPING AND RELATED OFFENSES*

*(1) Unlawful restraint.*

*(B) BODILY HARM*

*(2) Felony aggravated assault;*

*(3) Vehicular endangerment;*

*(4) Felony domestic battery;*

*(5) Aggravated battery;*

*(6) Heinous battery;*

*(7) Aggravated battery with a firearm;*

*(8) Aggravated battery of an unborn child;*

*(9) Aggravated battery of a senior citizen;*

*(10) Intimidation;*

*(11) Compelling organization membership of persons;*

*(12) Abuse and criminal neglect of a long term care facility resident;*

*(13) Felony violation of an order of protection.*

*(II) OFFENSES DIRECTED AGAINST PROPERTY*

*(14) Felony theft;*

*(15) Robbery;*

*(16) Armed robbery;*

*(17) Aggravated robbery;*

*(18) Vehicular hijacking;*

*(19) Aggravated vehicular hijacking;*

*(20) Burglary;*

*(21) Possession of burglary tools;*

*(22) Residential burglary;*

*(23) Criminal fortification of a residence or building;*

*(24) Arson;*

*(25) Aggravated arson;*

*(26) Possession of explosive or explosive incendiary devices.*

*(III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY*

*(27) Felony unlawful use of weapons;*

*(28) Aggravated discharge of a firearm;*

*(29) Reckless discharge of a firearm;*

*(30) Unlawful use of metal piercing bullets;*

*(31) Unlawful sale or delivery of firearms on the premises of any school;*

*(32) Disarming a police officer;*

*(33) Obstructing justice;*

*(34) Concealing or aiding a fugitive;*

*(35) Armed violence;*

*(36) Felony contributing to the criminal delinquency of a juvenile.*

*(IV) DRUG OFFENSES*

*(37) Possession of more than 30 grams of cannabis;*

*(38) Manufacture of more than 10 grams of cannabis;*

*(39) Cannabis trafficking;*

*(40) Delivery of cannabis on school grounds;*

*(41) Unauthorized production of more than 5 cannabis sativa plants;*

*(42) Calculated criminal cannabis conspiracy;*

*(43) Unauthorized manufacture or delivery of controlled substances;*

*(44) Controlled substance trafficking;*

*(45) Manufacture, distribution, or advertisement of look-alike substances;*

*(46) Calculated criminal drug conspiracy;*

*(46.5) Street gang criminal drug conspiracy;*

*(47) Permitting unlawful use of a building;*

*(48) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property;*

*(49) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances;*

*(50) Delivery of controlled substances;*

*(51) Sale or delivery of drug paraphernalia;*

*(52) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection;*

*(53) Any violation of the Methamphetamine Control and Community Protection Act.*

**Waiver Conditions for Foster Homes**

*The Department may make an exception and issue a new foster family home license or may renew an existing foster family home license of an applicant who was convicted of an offense described in the section titled Additional Foster Home Restrictions, provided all of the following requirements are met:*

*(1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal;*

*(2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check;*

*(3) After the disclosure, the Department either placed a child in the home or the foster family home license was issued;*

*(4) During the background check, the Department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the hire or licensure;*

*(5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under this Act and the Department's administrative rules;*

*(6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.* [225 ILCS 10/4.2(d)]

*In evaluating whether to grant the exception, the Department must carefully review any relevant documents to determine whether the applicant, despite the disqualifying convictions, poses a substantial risk to State resources or clients. In making this determination, the following guidelines shall be used:*

*(1) the age of the applicant when the offense was committed;*

*(2) the circumstances surrounding the offense;*

*(3) the length of time since the conviction;*

*(4) the specific duties and responsibilities necessarily related to the license being applied for and the bearing, if any, that the applicant's conviction history may have on his or her fitness to perform these duties and responsibilities;*

*(5) the applicant's employment references;*

*(6) the applicant's character references and any certificates of achievement;*

*(7) an academic transcript showing educational attainment since the disqualifying conviction;*

*(8) a Certificate of Relief from Disabilities or Certificate of Good Conduct; and*

*(9) anything else that speaks to the applicant's character.* [225 ILCS 10/4.2(e)]

(Source: Amended at 45 Ill. Reg. 12963, effective September 28, 2021)