



Rep. Constance A. Howard

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1 AMENDMENT TO SENATE BILL 1338

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1338 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Task Force on Inventorying Employment  
5 Restrictions Act is amended by changing Section 15 as follows:

6 (20 ILCS 5000/15)

7 Sec. 15. Task Force.

8 (a) The Task Force on Inventorying Employment Restrictions  
9 is hereby created in the Illinois Criminal Justice Information  
10 Authority. The purpose of the Task Force is to review the  
11 statutes, administrative rules, policies and practices that  
12 restrict employment of persons with a criminal history, as set  
13 out in subsection (c) of this Section, and to report to the  
14 Governor and the General Assembly those employment  
15 restrictions and their impact on employment opportunities for  
16 people with criminal records. The report shall also identify

1 any employment restrictions that are not reasonably related to  
2 public safety.

3 (b) Within 60 days after the effective date of this  
4 amendatory Act of the 97th General Assembly, the President of  
5 the Senate, the Speaker of the House of Representatives, the  
6 Minority Leader of the Senate, and the Minority Leader of the  
7 House of Representatives shall each appoint 2 members of the  
8 General Assembly to the Task Force. The term of office of any  
9 member of the public appointed by the President of the Senate,  
10 the Speaker of the House of Representatives, the Minority  
11 Leader of the Senate, or the Minority Leader of the House of  
12 Representatives serving on the effective date of this  
13 amendatory Act of the 97th General Assembly shall end on that  
14 date. The Governor shall appoint the Task Force chairperson. In  
15 addition, the Director or Secretary of each of the following,  
16 or his or her designee, are members: the Department of Human  
17 Services, the Department of Corrections, the Department of  
18 Commerce and Economic Opportunity, the Department of Children  
19 and Family Services, the Department of Human Rights, the  
20 Department of Central Management Services, the Department of  
21 Employment Security, the Department of Public Health, the  
22 Department of State Police, the Illinois State Board of  
23 Education, the Illinois Board of Higher Education, the Illinois  
24 Community College Board, and the Illinois Criminal Justice  
25 Information Authority. Members shall not receive compensation.  
26 The Illinois Criminal Justice Information Authority shall

1 provide staff and other assistance to the Task Force.

2 (c) On or before November 1, 2011, all State agencies shall  
3 produce a report for the Task Force that describes the  
4 employment restrictions that are based on criminal records for  
5 each occupation under the agency's jurisdiction and that of its  
6 boards, if any, including, but not limited to, employment  
7 within the agency; employment in facilities licensed,  
8 regulated, supervised, or funded by the agency; employment  
9 pursuant to contracts with the agency; and employment in  
10 occupations that the agency licenses or provides  
11 certifications to practice. For each occupation subject to a  
12 criminal records-based restriction, the agency shall set forth  
13 the following:

14 (1) the job title, occupation, job classification, or  
15 restricted place of employment, including the range of  
16 occupations affected in such places;

17 (2) the statute, regulation, policy, and procedure  
18 that authorizes the restriction of applicants for  
19 employment and licensure, current employees, and current  
20 licenses;

21 (3) the substance and terms of the restriction, and

22 (A) if the statute, regulation, policy or practice  
23 enumerates disqualifying offenses, a list of each  
24 disqualifying offense, the time limits for each  
25 offense, and the point in time when the time limit  
26 begins;

1 (B) if the statute, regulation, policy or practice  
2 does not enumerate disqualifying offenses and instead  
3 provides for agency discretion in determining  
4 disqualifying offenses, the criteria the agency has  
5 adopted to apply the disqualification to individual  
6 cases. Restrictions based on agency discretion  
7 include, but are not limited to, restrictions based on  
8 an offense "related to" the practice of a given  
9 profession; an offense or act of "moral turpitude"; and  
10 an offense evincing a lack of "good moral character".

11 (4) the procedures used by the agency to identify an  
12 individual's criminal history, including but not limited  
13 to disclosures on applications and background checks  
14 conducted by law enforcement or private entities;

15 (5) the procedures used by the agency to determine and  
16 review whether an individual's criminal history  
17 disqualifies that individual;

18 (6) the year the restriction was adopted, and its  
19 rationale;

20 (7) any exemption, waiver, or review mechanisms  
21 available to seek relief from the disqualification based on  
22 a showing of rehabilitation or otherwise, including the  
23 terms of the mechanism, the nature of the relief it  
24 affords, and whether an administrative and judicial appeal  
25 is authorized;

26 (8) any statute, rule, policy and practice that

1 requires an individual convicted of a felony to have his  
2 civil rights restored to become qualified for the job; and  
3 9 copies of the following documents:

4 (A) forms, applications, and instructions provided  
5 to applicants and those denied or terminated from jobs  
6 or licenses based on their criminal record;

7 (B) forms, rules, and procedures that the agency  
8 employs to provide notice of disqualification, to  
9 review applications subject to disqualification, and  
10 to provide for exemptions and appeals of  
11 disqualification;

12 (C) memos, guidance, instructions to staff,  
13 scoring criteria and other materials used by the agency  
14 to evaluate the criminal histories of applicants,  
15 licensees, and employees; and

16 (D) forms and notices used to explain waiver,  
17 exemption and appeals procedures for denial,  
18 suspensions and terminations of employment or  
19 licensure based on criminal history.

20 (d) Each State agency shall participate in a review to  
21 determine the impact of the employment restrictions based on  
22 criminal records and the effectiveness of existing  
23 case-by-case review mechanisms. The information required under  
24 this subsection (d) shall be limited to the data and  
25 information in the possession of the State agency on the  
26 effective date of this amendatory Act of the 97th General

1 Assembly. With respect to compliance with the requirements of  
2 this subsection (d), a State agency is under no obligation to  
3 collect additional data or information. For each occupation  
4 under the agency's jurisdiction for which there are employment  
5 restrictions based on criminal records, each State agency must  
6 provide the Task Force with a report, on or before February 1,  
7 2012, for the previous 2-year period, setting forth:

8 (1) the total number of people currently employed in  
9 the occupation whose employment or licensure required  
10 criminal history disclosure, background checks or  
11 restrictions;

12 (2) the number and percentage of individuals who  
13 underwent a criminal history background check;

14 (3) the number and percentage of individuals who were  
15 merely required to disclose their criminal history without  
16 a criminal history background check;

17 (4) the number and percentage of individuals who were  
18 found disqualified based on criminal history disclosure by  
19 the applicant;

20 (5) the number and percentage of individuals who were  
21 found disqualified based on a criminal history background  
22 check;

23 (6) the number and percentage of individuals who sought  
24 an exemption or waiver from the disqualification;

25 (7) the number and percentage of individuals who sought  
26 an exemption or waiver who were subsequently granted the

1 exemption or waiver at the first level of agency review (if  
2 multiple levels of review are available);

3 (8) the number and percentage of individuals who sought  
4 an exemption or waiver who were subsequently granted the  
5 exemption or waiver at the next level of agency review (if  
6 multiple levels of review are available);

7 (9) the number and percentage of individuals who were  
8 denied an exemption or waiver at the final level of agency  
9 review, and then sought review through an administrative  
10 appeal;

11 (10) the number and percentage of individuals who were  
12 denied an exemption or waiver at the final level of agency  
13 review, and then sought review through an administrative  
14 appeal and were then found qualified after such a review;

15 (11) the number and percentage of individuals who were  
16 found disqualified where no waiver or exemption process is  
17 available;

18 (12) the number and percentage of individuals who were  
19 found disqualified where no waiver or exemption process is  
20 available and who sought administrative review and then  
21 were found qualified; and

22 (13) if the agency maintains records of active licenses  
23 or certifications, the executive agency shall provide the  
24 total number of employees in occupations subject to  
25 criminal history restrictions.

26 (e) (Blank).

1           (f) The Task Force shall report to the Governor and the  
2 General Assembly its findings, including recommendations as to  
3 any employment restrictions that are not reasonably related to  
4 public safety, by July 1, 2013 ~~September 1, 2012~~.

5           (Source: P.A. 96-593, eff. 8-18-09; 96-1360, eff. 7-28-10;  
6 97-501, eff. 8-23-11.)

7           Section 99. Effective date. This Act takes effect upon  
8 becoming law.".