

TITL: Compendium of State Privacy and Security Legislation: 1997
Overview -ILLINOIS ; ACT. 140 Revised Statutes Annotated

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ANNOTATION: This is a 1997 overview of State law pertinent to the
privacy and security of criminal justice information.

FREEDOM OF INFORMATION
ACT 140. FREEDOM OF INFORMATION ACT

Cross References

Lotteries, records and data, public inspection and copying, see 20 ILCS 1605/12.

140/1. Public policy—Legislative intent

Cross References

Police officers, allegations of use of unreasonable force, confidentiality, see 65 ILCS 5/10-1-18, 5/10-1-18.1.

140/7. Exemptions

§ 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects

of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; and

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

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(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.¹ Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans and engineers' technical submissions for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, to the extent that disclosure would compromise security.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act² until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.³

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

RECORDS

ACT 160. STATE RECORDS ACT

160/1. Short title

§ 1. This Act may be cited as the State Records Act.

Laws 1957, p. 1687, § 1, eff. July 6, 1957. Amended by P.A. 86-1475, Art. 4, § 4-82, eff. Jan. 10, 1991.

Formerly Ill.Rev.Stat.1991, ch. 116, ¶ 43.4.

160/2. Definitions

§ 2. For the purposes of this Act:

"Secretary" means Secretary of State.

"Record" or "records" means all books, papers, maps, photographs, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed or received by any agency in the State in pursuance of state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in this Act. Reports of impaired physicians under Section 16.04 of the Medical Practice Act ¹ or Section 23 of the Medical Practice Act of 1987 ² are not included within the definition of records as used in this Act.

"Agency" means all parts, boards, and commissions of the executive branch of the State government including but not limited to State colleges and universities and their governing boards and all departments established by the "Civil Administrative Code of Illinois," as heretofore or hereafter amended.³

"Public Officer" or "public officers" means all officers of the executive branch of the State government, all officers created by the "Civil Administrative Code of Illinois," as heretofore or hereafter amended, and all other officers and heads, presidents, or chairmen of boards, commissions, and agencies of the State government.

"Commission" means the State Records Commission.

"Archivist" means the Secretary of State.

160/3. Reports and records of obligation, receipt and use of public funds as public records

§ 3. Reports and records of the obligation, receipt and use of public funds of the State are public records available for inspection by the public, except as access to such records is otherwise limited or prohibited by law or pursuant to law. These records shall be kept at the official place of business of the State or at a designated place of business of the State. These records shall be available for public inspection during regular office hours except when in immediate use by persons exercising official duties which require the use of those records. The person in charge of such records may require a notice in writing to be submitted 24 hours prior to inspection and may require that such notice specify which records are to be inspected. Nothing in this section shall require the State to invade or assist in the invasion of any person's right to privacy. Nothing in this Section shall be construed to limit any right given by statute or rule of law with respect to the inspection of other types of records.

Warrants and vouchers in the keeping of the State Comptroller may be destroyed by him as authorized in "An Act in relation to the reproduction and destruction of records kept by the Comptroller", approved August 1, 1949, as now or hereafter amended.¹

160/4. Right of access by public—Reproductions—Fees

§ 4. Any person shall have the right of access to any public records of the expenditure or receipt of public funds as defined in Section 3 for the purpose of obtaining copies of the same or of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy. The photographing shall be done under the supervision of the lawful custodian of said records, who has the right to adopt and enforce reasonable rules governing such work. The work of photographing shall, when possible, be done in the room where the records, documents or instruments are kept. However, if in the judgment of the lawful custodian of the records, documents or instruments, it would be impossible or impracticable to perform the work in the room in which the records, documents or instruments are kept, the work shall be done in some other room or place as

nearly adjacent as possible to the room where kept. Where the providing of a separate room or place is necessary, the expense of providing for the same shall be borne by the person or persons desiring to photograph the records, documents or instruments. The lawful custodian of the records, documents or instruments may charge the same fee for the services rendered by him or his assistant in supervising the photographing as may be charged for furnishing a certified copy or copies of the said record, document or instrument. In the event that the lawful custodian of said records shall deem it advisable in his judgment to furnish photographs of such public records, instruments or documents in lieu of allowing the same to be photographed, then in such event he may furnish photographs of such records and charge a fee of 35¢ per page when the page to be photographed does not exceed legal size and \$1.00 per page when the page to be photographed exceeds legal size and where the fees and charges therefor are not otherwise fixed by law.

160/5. State Archives Division—Creation

§ 5. The Secretary of State shall provide for a State Archives Division as a repository of State records. The State Archives may utilize space in the Archives Building or other buildings as may be necessary or appropriate for the purpose, in the opinion of the Secretary of State.

160/6. Secretary of State to be State Archivist—Assistants

§ 6. The Secretary of State shall be the State Archivist and Records Administrator and he shall appoint such assistants, who shall be technically qualified and experienced in the control and management of archival materials and in records management practices and techniques, as are necessary to carry out his duties as State Archivist.

160/7. Powers and duties of secretary—Public access to records

§ 7. The Secretary:

(1) whenever it appears to him to be in the public interest, may accept for deposit in the State Archives the records of any agency or of the Legislative or Judicial branches of the State government that are determined by him to have sufficient historical or other value to warrant the permanent preservation of such records by the State of Illinois;

(2) may accept for deposit in the State Archives official papers, drawings, maps, writings, and records of every description of counties, municipal corporations, political subdivisions and courts of this State, and records of the federal government pertaining to Illinois, when such materials are deemed by the Secretary to have sufficient historical or other value to warrant their continued preservation by the State of Illinois.

(3) whenever he deems it in the public interest, may accept for deposit in the State Archives motion picture films, still pictures, and sound recordings that are appropriate for preservation by the State government as evidence of its organization, functions and policies.

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(4) shall be responsible for the custody, use, servicing and withdrawal of records transferred for deposit in the State Archives. The Secretary shall observe any rights, limitations, or restrictions imposed by law relating to the use of records, including the provisions of the Mental Health and Developmental Disabilities Confidentiality Act¹ which limit access to certain records or which permit access to certain records only after the removal of all personally identifiable data. Access to restricted records shall be at the direction of the depositing State agency or, in the case of records deposited by the legislative or judicial branches of State government at the direction of the branch which deposited them, but no limitation on access to such records shall extend more than 75 years after the creation of the records, except as provided in the Mental Health and Developmental Disabilities Confidentiality Act. The Secretary shall not impose restrictions on the use of records that are defined by law as public records or as records open to public inspection;

(5) shall make provision for the preservation, arrangement, repair, and rehabilitation, duplication and reproduction, description, and exhibition of records deposited in the State Archives as may be needed or appropriate;

(6) shall make or reproduce and furnish upon demand authenticated or unauthenticated copies of any of the documents, photographic material or other records deposited in the State Archives, the public examination of which is not prohibited by statutory limitations or restrictions or protected by copyright. The Secretary shall charge a fee therefor in accordance with the schedule of fees in Section 10 of "An Act concerning fees and salaries, and to classify the several counties of this state with reference thereto," approved March 29, 1872, as amended,² except that there shall be no charge for making or authentication of such copies or reproductions furnished to any department or agency of the State for official use. When any such copy or reproduction is authenticated by the Great Seal of the State of Illinois and is certified by the Secretary, or in his name by his authorized representative, such copy or reproduction shall be admitted in evidence as if it were the original.

(7) any official of the State of Illinois may turn over to the Secretary of State, with his consent, for permanent preservation in the State Archives, any official books, records, documents, original papers, or files, not in current use in his office, taking a receipt therefor.

(8) shall require of all persons, firms, corporations or other legal entities who desire access to information not defined as public records or as records open to public inspection, but open to the public, as provided in this Act, an affidavit dated and signed by the person making the request or his representative, notarized by a notary public, and containing substantially the following:

"Application and Agreement for Release of Information

"The Secretary of State, State of Illinois, agrees to release the following described information subject to the following agreement:

"It is hereby agreed by _____, known as the User, that the information, lists, names and other material provided by the Office of the Secretary of State shall not be made available to other persons, firms, corporations or

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other legal entities. The User agrees that it shall preserve the confidentiality of any person or persons named in these records.

"The information contained shall not be exchanged with any other person, firm or corporation for other information or lists unless the identity of any person or persons named in these records has been removed. Such an act shall constitute a material breach of this agreement and all information previously received by the User shall be returned to the Office of the Secretary of State, State of Illinois.

"The user understands that any violation of this agreement is a Class A misdemeanor, punishable by imprisonment in a penal institution other than a penitentiary for not more than one year or a fine not exceeding \$1,000, or both.

"Description of information: _____

Date

Date

Signature

Signature

User or his representative

Secretary of State, State of Illinois
by Director Archives and Records
Division

User's name, if not above

User's Address"

A violation of the provisions of an agreement under this paragraph (8) is a Class A misdemeanor.

(9) may cooperate with the Illinois State Genealogical Society, or its successor organization, for the mutual benefit of the Society and the Illinois State Archives, with the State Archives furnishing necessary space for the society to carry on its functions and keep its records, to receive publications of the Illinois State Genealogical Society, to use members of the Illinois State Genealogical Society as volunteers in various archival projects and to store the Illinois State Genealogical Society's film collections.

160/8. Preservation of records

§ 8. The head of each agency shall cause to be made and preserved records containing adequate and proper documentation of the organization,

functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.

This section shall not be construed to prevent the legal disposal of any records determined by the agency and by the Commission not to have sufficient value to warrant their continued preservation by the State or by the agency concerned.

160/9. Programs for efficient management of records

§ 9. The head of each agency shall establish, and maintain an active, continuing program for the economical and efficient management of the records of the agency.

Such program:

(1) shall provide for effective controls over the creation, maintenance, and use of records in the conduct of current business;

(2) shall provide for cooperation with the Secretary in applying standards, procedures, and techniques to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value;

(3) shall provide for compliance with the provisions of this Act and the rules and regulations issued thereunder.

This Section shall not apply to State colleges and universities and their governing boards.

160/10. Transfer of agency records

§ 10. Whenever the head of an agency determines that substantial economies or increased operating efficiency can be effected thereby, he may, subject to the approval of the Secretary, provide for the storage, care, and servicing of records that are appropriate therefor in a records center operated and maintained by the Secretary.

160/11. Records not to be damaged or destroyed

§ 11. All records made or received by or under the authority of or coming into the custody, control or possession of public officials of this State in the course of their public duties are the property of the State and shall not be mutilated, destroyed, transferred, removed or otherwise damaged or disposed of, in whole or in part except as provided by law.

160/12. Surveys of management and disposal practices

§ 12. The Secretary shall make continuing surveys of State records management and disposal practices and obtain reports thereon from agencies.

160/13. Improvement of management practices and security of records

§ 13. The Secretary, with due regard to the program activities of the agencies concerned, shall make provision for the economical and efficient management of records of State agencies by analyzing, developing, promoting, coordinating, and promulgating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value. The Secretary shall aid also in promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

This Section shall not apply to State colleges and universities and their governing boards.

160/14. Standards for retention

§ 14. The Secretary shall establish standards for the selective retention of records of continuing value and assist agencies in applying such standards to records in their custody.

160/15. Records centers

§ 15. The Secretary shall establish, maintain, and operate records centers for the storage, care, and servicing of records of State agencies pending their deposit in the State Archives or the disposition of such records in any other manner authorized by law. The Secretary may establish, maintain, and operate centralized microfilming services for agencies.

160/15a. System for protection and preservation of records—Establishment

§ 15a. The head of each agency shall establish a system for the protection and preservation of essential State records necessary for the continuity of governmental functions in the event of an emergency arising from enemy action or natural disaster and for the reestablishment of State government thereafter.

160/15b. Records essential for emergency government operation—Determination

§ 15b. The head of each agency shall:

(1) Determine what records are "essential" for emergency government operation through consultation with all branches of government, State agencies, and with the State Civil Defense Agency.

(2) Determine what records are "essential" for post-emergency government operations and provide for their protection and preservation.

(3) Establish the manner in which essential records for emergency and post-emergency government operations shall be preserved to insure emergency usability.

(4) Establish and maintain an essential records preservation program.

The Secretary may provide for security storage or relocation of essential State records in the event of an emergency arising from enemy attack or natural disaster.

160/16. State Records Commission—Membership—Meetings—Duties

§ 16. There is created the State Records Commission. The Commission shall consist of the following members: The Secretary of State, or his representative, who shall act as chairman; the State Historian, who shall serve as secretary; the State Treasurer, or his authorized representative; the Director of Central Management Services, or his authorized representative; the Attorney General, or his authorized representative; and the State Comptroller, or his authorized representative. The Commission shall meet whenever called by the chairman, who shall have no vote on matters considered by the Commission. It shall be the duty of the Commission to determine what records no longer have any administrative, legal, research, or historical value and should be destroyed or disposed of otherwise.

160/17. Disposal and reproduction of records—Regulations

§ 17. Regardless of other authorization to the contrary, no record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained. The Commission shall issue regulations, not inconsistent with this Act, which shall be binding on all agencies. Such regulations shall establish procedures for compiling and submitting to the Commission lists and schedules of records proposed for disposal; procedures

for the physical destruction or other disposition of records proposed for disposal; and standards for the reproduction of records by photography or microphotographic processes with the view to the disposal of the original records. Such standards shall relate to the quality of film used, preparation of the records for filming, proper identification matter on the records so that an individual document or series of documents can be located on the film with reasonable facility, and that the copies contain all significant record detail, to the end that the photographic or microphotographic copies will be adequate.

Such regulations shall also provide that the State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and that the State archivist may deposit them in the State Library or State historical museum or with a historical society, museum or library.

160/18. Reports and schedules to be submitted by agency heads

§ 18. The head of each agency shall submit to the Commission, in accordance with the regulations of the Commission, lists or schedules of records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal or fiscal value to warrant their further preservation. The head of each agency also shall submit lists or schedules proposing the length of time each record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.

160/19. Disposition of reports and schedules

§ 19. All lists and schedules submitted to the Commission shall be referred to the Archivist who shall ascertain whether the records proposed for disposal have value to other agencies of the State or whether such records have research or historical value. The Archivist shall submit such lists and schedules with his recommendations in writing to the Commission; and the final disposition of such records shall be according to the orders of the Commission.

160/20. Destruction of nonrecord materials

§ 20. Nonrecord materials or materials not included within the definition of records as contained in this Act may be destroyed at any time by the agency in possession of such materials without the prior approval of the Commission. The Commission may formulate advisory procedures and interpretation to guide in the disposition of nonrecord materials.

160/21. Disposal of records—Consent of agency head

§ 21. The Archivist shall submit to the Commission, with his recommendations in writing, disposal lists of records that have been deposited in the State Archives as provided in subsections (1), (2), and (3) of Section 7 of this Act, after having determined that the records concerned do not have sufficient value to warrant their continued preservation by the State. However, any records deposited in the State Archives by any agency pursuant to the provisions of subsection (1) of Section 7 of this Act shall not be submitted to the Commission for disposal without the written consent of the head of such agency.

160/22. Disposition of records of terminated State agency

§ 22. Upon the termination of any State agency whose function or functions have not been transferred to another agency, the records of such terminated agency shall be deposited in the State Archives. The Commission shall determine which records are of sufficient legal, historical, administrative, or fiscal value to warrant their continued preservation by the State. Records that are determined to be of insufficient value to warrant their

160/22a. State Archives Advisory Board—Members—Terms—Officers—Compensation

§ 22a. There is hereby created the State Archives Advisory Board consisting of 12 voting members and 2 nonvoting members.

The voting members shall be appointed by the Secretary of State as follows: A member of the State Records Commission, a member of a Local Records Commission, a member of a local historical society or museum, a university archivist, a person in the field of education specializing in either history or political science, a genealogist, a research or reference librarian, a person who is employed or engaged as an archivist by a business establishment and 4 public members.

The nonvoting members shall be the Director of the State Library and the State Historian who shall serve ex-officio.

Four of the initial appointees shall serve a 1-year term; four shall serve 2-year terms; and the remaining 4 shall serve 3-year terms. The terms of the initial appointees shall be specified by the Secretary of State at the time of appointments. Subsequent to the initial appointments all members shall hold office for a period of 3 years. Vacancies shall be filled by appointment of the Secretary of State for the unexpired balance of the term. No person shall serve for more than 2 consecutive 3-year terms.

The State Archives Advisory Board shall elect from its own members one chairman and one vice chairman.

The members appointed to the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

160/22b. State Archives Advisory Board—Meetings—Recommendations

§ 22b. The State Archives Advisory Board shall meet at the call of the chairman, but not less than 3 times in each calendar year, and shall make recommendations to the State Archivist on such matters as: general policies regarding the operation of the State archives; budget policies relative to

annual appropriations by the General Assembly; and policies for federally funded archives programs.

160/22c. Archiving of local government documents on optical disk media

§ 22c. The Secretary, no later than April 1, 1992, shall provide the General Assembly with his recommendations for the archiving of local government documents on optical disk media.

160/23. Repeal—Saving clause

§ 23. "An Act creating the State Records Commission and defining its powers and duties," approved July 23, 1943, as amended, is repealed,¹ but all orders heretofore issued by the State Records Commission created by said Act shall stand and continue to be in full force and effect.

160/24. Penalty for violation

§ 24. Any officer or employee who violates the provisions of Section 3 of this Act is guilty of a Class B misdemeanor.

160/25. Partial invalidity

§ 25. The invalidity of any section or part or portion of this act shall not affect the validity of the remaining sections or parts thereof.

160/26. Freedom of Information Act—Application

§ 26. Beginning July 1, 1984, the provisions of Sections 3 and 4 of this Act, as they relate to inspection and copying of records, shall apply only as to records and reports prepared or received prior to this date. Records and reports prepared or received on or after July 1, 1984, shall be covered under the provisions of "The Freedom of Information Act", approved by the 83rd General Assembly.¹

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DEPARTMENT OF STATE POLICE

ACT 2605. CIVIL ADMINISTRATIVE CODE OF ILLINOIS (PART 10.5)

DEPARTMENT OF STATE POLICE

2605/55a. Powers and duties of Department of State Police

§ 55a. (A) The Department of State Police shall have the following powers and duties, and those set forth in Sections 55a-1 through 55c:

1. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Act.¹
2. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the State Police Radio Act.²
3. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Criminal Identification Act.³
4. To (a) investigate the origins, activities, personnel and incidents of crime and the ways and means to redress the victims of crimes, and study the impact, if any, of legislation relative to the effusion of crime and growing crime rates, and enforce the criminal laws of this State related thereto, (b) enforce all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, delivering, distributing, or use of controlled substances and cannabis, (c) employ skilled experts, scientists, technicians, investigators or otherwise specially qualified persons to aid in preventing or detecting crime, apprehending criminals, or preparing and presenting evidence of violations of the criminal laws of the State, (d) cooperate with the police of cities, villages and incorporated towns, and with the police officers of any county, in enforcing the laws of the State and in making arrests and recovering property, (e) apprehend and deliver up any person charged in this State or any other State of the United States with treason, felony, or other crime, who has fled from justice and is found in this State, and (f) conduct such other investigations as may be provided by law. Persons exercising these powers within the Department are conservators of the peace and as such have all the powers possessed by policemen in cities and sheriffs, except that they may exercise such powers anywhere in the State in cooperation with and after contact with the local law enforcement officials. Such persons may use false or fictitious names in the performance of their duties under this paragraph, upon approval of the Director, and shall not be subject to prosecution under the criminal laws for such use.
5. To: (a) be a central repository and custodian of criminal statistics for the State, (b) be a central repository for criminal history record information, (c) procure and file for record such information as is necessary and helpful to plan programs of crime prevention, law enforcement and criminal justice, (d) procure and file for record such copies of fingerprints, as may be required by law, (e) establish general and field crime laboratories, (f) register and file for record such information as may be required by law for the issuance of firearm owner's identification cards, (g) employ polygraph operators, laboratory technicians and other specially qualified persons to aid in the identification of criminal activity, and (h) undertake such other identification, information, laboratory, statistical or registration activities as may be required by law.
6. To (a) acquire and operate one or more radio broadcasting stations in the State to be used for police purposes, (b) operate a statewide communications network to gather and disseminate information for law enforcement agencies, (c) operate an electronic data processing and computer center for the storage and retrieval of data pertaining to criminal activity, and (d) undertake such other communication activities as may be required by law.
7. To provide, as may be required by law, assistance to local law enforcement agencies through (a) training, management and consultant services for local law enforcement agencies, and (b) the pursuit of research and the publication of studies pertaining to local law enforcement activities.
8. To exercise the rights, powers and duties which have been vested in the Department of State Police and the Director of the Department of State Police by the Narcotic Control Division Abolition Act.⁴
9. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Illinois Vehicle Code.⁵
10. To exercise the rights, powers and duties which have been vested in the Department of Public Safety by the Firearm Owners Identification Card Act.⁶

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11. To enforce and administer such other laws in relation to law enforcement as may be vested in the Department.

12. To transfer jurisdiction of any realty title to which is held by the State of Illinois under the control of the Department to any other department of the State government or to the State Employees Housing Commission, or to acquire or accept Federal land, when such transfer, acquisition or acceptance is advantageous to the State and is approved in writing by the Governor.

13. With the written approval of the Governor, to enter into agreements with other departments created by this Act, for the furlough of inmates of the penitentiary to such other departments for their use in research programs being conducted by them.

For the purpose of participating in such research projects, the Department may extend the limits of any inmate's place of confinement, when there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions, to leave the confines of the place unaccompanied by a custodial agent of the Department. The

Department shall make rules governing the transfer of the inmate to the requesting other department having the approved research project, and the return of such inmate to the unextended confines of the penitentiary. Such transfer shall be made only with the consent of the inmate.

The willful failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time or manner prescribed to the place of confinement designated by the Department in granting such extension shall be deemed an escape from custody of the Department and punishable as provided in Section 3-6-4 of the Unified Code of Corrections.⁷

14. To provide investigative services, with all of the powers possessed by policemen in cities and sheriffs, in and around all race tracks subject to the Horse Racing Act of 1975.⁸

15. To expend such sums as the Director deems necessary from Contractual Services appropriations for the Division of Criminal Investigation for the purchase of evidence and for the employment of persons to obtain evidence. Such sums shall be advanced to agents authorized by the Director to expend funds, on vouchers signed by the Director.

16. To assist victims and witnesses in gang crime prosecutions through the administration of funds appropriated from the Gang Violence Victims and Witnesses Fund to the Department. Such funds shall be appropriated to the Department and shall only be used to assist victims and witnesses in gang crime prosecutions and such assistance may include any of the following:

- (a) temporary living costs;
- (b) moving expenses;
- (c) closing costs on the sale of private residence;
- (d) first month's rent;
- (e) security deposits;
- (f) apartment location assistance;
- (g) other expenses which the Department considers appropriate; and
- (h) compensation for any loss of or injury to real or personal property resulting from a gang crime to a maximum of \$5,000, subject to the following provisions:

(1) in the case of loss of property, the amount of compensation shall be measured by the replacement cost of similar or like property which has been incurred by and which is substantiated by the property owner,

(2) in the case of injury to property, the amount of compensation shall be measured by the cost of repair incurred and which can be substantiated by the property owner,

(3) compensation under this provision is a secondary source of compensation and shall be reduced by any amount the property owner receives from any other source as compensation for the loss or injury, including, but not limited to, personal insurance coverage,

(4) no compensation may be awarded if the property owner was an offender or an accomplice of the offender, or if the award would unjustly benefit the offender or offenders, or an accomplice of the offender or offenders.

No victim or witness may receive such assistance if he or she is not a part of or fails to fully cooperate in the prosecution of gang crime members by law enforcement authorities.

The Department shall promulgate any rules necessary for the implementation of this amendatory Act of 1985.

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17. To conduct arson investigations.

18. To develop a separate statewide statistical police contact record keeping system for the study of juvenile delinquency. The records of this police contact system shall be limited to statistical information. No individually identifiable information shall be maintained in the police contact statistical record system.

19. To develop a separate statewide central adjudicatory and dispositional records system for persons under 19 years of age who have been adjudicated delinquent minors and to make information available to local registered participating police youth officers so that police youth officers will be able to obtain rapid access to the juvenile's background from other jurisdictions to the end that the police youth officers can make appropriate dispositions which will best serve the interest of the child and the community. Information maintained in the adjudicatory and dispositional record system shall be limited to the incidents or offenses for which the minor was adjudicated delinquent by a court, and a copy of the court's dispositional order. All individually identifiable records in the adjudicatory and dispositional records system shall be destroyed when the person reaches 19 years of age.

20. To develop rules which guarantee the confidentiality of such individually identifiable adjudicatory and dispositional records except when used for the following:

(a) by authorized juvenile court personnel or the state's attorney in connection with proceedings under the Juvenile Court Act of 1987;⁹ or

(b) inquiries from registered police youth officers.

For the purposes of this Act "police youth officer" means a member of a duly organized State, county or municipal police force who is assigned by his or her Superintendent, Sheriff or chief of police, as the case may be, to specialize in youth problems.

21. To develop administrative rules and administrative hearing procedures which allow a minor, his or her attorney, and his or her parents or guardian access to individually identifiable adjudicatory and dispositional records for the purpose of determining or challenging the accuracy of the records. Final administrative decisions shall be subject to the provisions of the Administrative Review Law.¹⁰

22. To charge, collect and receive fees or moneys equivalent to the cost of providing Department of State Police personnel, equipment and services to other State agencies and federal agencies and equivalent to the cost of providing training to local governmental agencies on such terms and conditions as in the judgment of the Director are in the best interest of the State; and to establish, charge, collect and receive fees or moneys based on the cost of providing responses to requests for criminal history record information pursuant to positive identification and any Illinois or federal law authorizing access to some aspect of such information and to prescribe the form and manner for requesting and furnishing such information to the requestor on such terms and conditions as in the judgment of the Director are in the best interest of the State, provided fees for requesting and furnishing criminal history record information may be waived for requests in the due administration of the criminal laws. The Department may also charge, collect and receive fees or moneys equivalent to the cost of providing electronic data processing lines or related telecommunication services to local governments, but only when such services can be provided by the Department at a cost less than that experienced by said local governments through other means. All services provided by the Department shall be conducted pursuant to contracts in accordance with the Intergovernmental Cooperation Act,¹¹ and all telecommunication services shall be provided pursuant to the provisions of Section 67.18 of this Code.

All fees received by the Department of State Police under this Act or the Illinois Uniform Conviction Information Act¹² shall be deposited in a special fund in the State Treasury to be known as the State Police Services Fund. The money deposited in the State Police Services Fund shall be appropriated to the Department of State Police for expenses of the Department of State Police.

In addition to any other permitted use of moneys in the Fund, and notwithstanding any restriction on the use of the Fund, moneys in the State Police Services Fund may be transferred to the General Revenue Fund as authorized by this amendatory Act of 1992. The General Assembly finds that an excess of moneys exists in the Fund. On February 1, 1992, the Comptroller shall order transferred and the Treasurer shall transfer \$500,000 (or such lesser amount as may be on deposit in the Fund and unexpended and unobligated on that date) from the Fund to the General Revenue Fund.

Upon the completion of any audit of the Department of State Police as prescribed by the Illinois State Auditing Act,¹³ which audit includes an audit of the State Police Services Fund, the Department of State Police shall make the audit open to inspection by any interested person.

23. To exercise the powers and perform the duties which have been vested in the Department of State Police by the Intergovernmental Missing Child Recovery Act of 1984,¹⁴ and to establish reasonable rules and regulations necessitated thereby.

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24. (a) To establish and maintain a statewide Law Enforcement Agencies Data System (LEADS) for the purpose of effecting an immediate law enforcement response to reports of missing persons, including lost, missing or runaway minors. The Department shall implement an automatic data exchange system to compile, to maintain and to make available to other law enforcement agencies for immediate dissemination data which can assist appropriate agencies in recovering missing persons.

(b) In exercising its duties under this subsection, the Department shall:

(1) provide a uniform reporting format for the entry of pertinent information regarding the report of a missing person into LEADS;

(2) develop and implement a policy whereby a statewide or regional alert would be used in situations relating to the disappearances of individuals, based on criteria and in a format established by the Department. Such a format shall include, but not be limited to, the age of the missing person and the suspected circumstance of the disappearance;

(3) notify all law enforcement agencies that reports of missing persons shall be entered as soon as the minimum level of data specified by the Department is available to the reporting agency, and that no waiting period for the entry of such data exists;

(4) compile and retain information regarding lost, abducted, missing or runaway minors in a separate data file, in a manner that allows such information to be used by law enforcement and other agencies deemed appropriate by the Director, for investigative purposes. Such information shall include the disposition of all reported lost, abducted, missing or runaway minor cases;

(5) compile and maintain an historic data repository relating to lost, abducted, missing or runaway minors and other missing persons in order to develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons; and

(6) create a quality control program regarding confirmation of missing person data, timeliness of entries of missing person reports into LEADS and performance audits of all entering agencies.

25. On request of a school board or regional superintendent of schools, to conduct an inquiry pursuant to Section 10-21.9 or 34-18.5 of the School Code¹⁵ to ascertain if an applicant for employment in a school district has been convicted of any criminal or drug offenses enumerated in Section 10-21.9 or 34-18.5 of the School Code. The Department shall furnish such conviction information to the President of the school board of the school district which has requested the information, or if the information was requested by the regional superintendent to that regional superintendent.

26. To promulgate rules and regulations necessary for the administration and enforcement of its powers and duties, wherever granted and imposed, pursuant to the Illinois Administrative Procedure Act.¹⁶

27. To (a) promulgate rules pertaining to the certification, revocation of certification and training of law enforcement officers as electronic criminal surveillance officers, (b) provide training and technical assistance to State's Attorneys and local law enforcement agencies pertaining to the interception of private oral communications, (c) promulgate rules necessary for the administration of Article 108B of the Code of Criminal Procedure of 1963,¹⁷ including but not limited to standards for recording and minimization of electronic criminal surveillance intercepts, documentation required to be maintained during an intercept, procedures in relation to evidence developed by an intercept, and (d) charge a reasonable fee to each law enforcement agency that sends officers to receive training as electronic criminal surveillance officers.

28. Upon the request of any private organization which devotes a major portion of its time to the provision of recreational, social, educational or child safety services to children, to conduct, pursuant to positive identification, criminal background investigations of all of that organization's current employees, current volunteers, prospective employees or prospective volunteers charged with the care and custody of children during the provision of the organization's services, and to report to the requesting organization any record of convictions maintained in the Department's files about such persons. The Department shall charge an application fee, based on actual costs, for the dissemination of conviction information pursuant to this subsection. The Department is empowered to establish this fee and shall prescribe

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the form and manner for requesting and furnishing conviction information pursuant to this subsection. Information received by the organization from the Department concerning an individual shall be provided to such individual. Any such information obtained by the organization shall be confidential and may not be transmitted outside the organization and may not be transmitted to anyone within the organization except as needed for the purpose of evaluating the individual. Only information and standards which bear a reasonable and rational relation to the performance of child care shall be used by the organization. Any employee of the Department or any member, employee or volunteer of the organization receiving confidential information under this subsection who gives or causes to be given any confidential information concerning any criminal convictions of an individual shall be guilty of a Class A misdemeanor unless release of such information is authorized by this subsection.

29. Upon the request of the Department of Children and Family Services, to investigate reports of child abuse or neglect.

30. To obtain registration of a fictitious vital record pursuant to Section 15.1 of the Vital Records Act.¹⁸

31. To collect and disseminate information relating to "hate crimes" as defined under Section 12-7.1 of the Criminal Code of 1961¹⁹ contingent upon the availability of State or Federal funds to revise and upgrade the Illinois Uniform Crime Reporting System. All law enforcement agencies shall report monthly to the Department of State Police concerning such offenses in such form and in such manner as may be prescribed by rules and regulations adopted by the Department of State Police. Such information shall be compiled by the Department and be disseminated upon request to any local law enforcement agency, unit of local government, or state agency. Dissemination of such information shall be subject to all confidentiality requirements otherwise imposed by law. The Department of State Police shall provide training for State Police officers in identifying, responding to, and reporting all hate crimes. The Illinois Local Governmental Law Enforcement Officer's Training Board shall develop and certify a course of such training to be made available to local law enforcement officers.

32. Upon the request of a private carrier company that provides transportation under Section 28b of the Metropolitan Transit Authority Act.²⁰ to ascertain if an applicant for a driver position has been convicted of any criminal or drug offense enumerated in Section 28b of the Metropolitan Transit Authority Act. The Department shall furnish the conviction information to the private carrier company that requested the information.

33. To apply for grants or contracts, receive, expend, allocate, or disburse funds and moneys made available by public or private entities, including, but not limited to, contracts, bequests, grants, or receiving equipment from corporations, foundations, or public or private institutions of higher learning. All funds received by the Department from these sources shall be deposited into the appropriate fund in the State Treasury to be appropriated to the Department for purposes as indicated by the grantor or contractor or, in the case of funds or moneys bequeathed or granted for no specific purpose, for any purpose as deemed appropriate by the Director in administering the responsibilities of the Department.

(B) The Department of State Police may establish and maintain, within the Department of State Police, a Statewide Organized Criminal Gang Database (SWORD) for the purpose of tracking organized criminal gangs and their memberships. Information in the database may include, but not be limited to, the name, last known address, birth date, physical descriptions (such as scars, marks, or tattoos), officer safety information, organized gang affiliation, and entering agency identifier. The Department may develop, in consultation with the Criminal Justice Information Authority, and in a form and manner prescribed by the Department, an automated data exchange system to compile, to maintain, and to make this information electronically available to prosecutors and to other law enforcement agencies. The information may be used by authorized agencies to combat the operations of organized criminal gangs statewide.

(C) The Department of State Police may ascertain the number of bilingual police officers and other personnel needed to provide services in a language other than English and may establish, under applicable personnel rules and Department guidelines or through a collective bargaining agreement, a bilingual pay supplement program.

2605/55a-3. Criminal Investigation Division

§ 55a-3. (a) The Division of Criminal Investigation shall exercise the following functions:

1. to exercise the rights, powers and duties vested by law in the Department by the Illinois Horse Racing Act of 1975;¹
2. to investigate the origins, activities, personnel and incidents of crime and enforce the criminal laws of this State related thereto;
3. to enforce all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, delivering, distributing, or use of controlled substances and cannabis;
4. to cooperate with the police of cities, villages, and incorporated towns, and with the police officers of any county in enforcing the laws of the State and in making arrests and recovering property;
5. to apprehend and deliver up any person charged in this State or any other State with treason, felony, or other crime, who has fled from justice and is found in this State;
6. to investigate recipients, providers and any personnel involved in the administration of the Illinois Public Aid Code² who are suspected of any violation of such Code pertaining to fraud in the administration, receipt or provision of assistance and pertaining to any violation of criminal law, and to exercise the functions required under Section 55a-7 in the conduct of such investigations;
7. to conduct such other investigations as may be provided by law;
8. to exercise the powers and perform the duties which have been vested in the Department of State Police by the Child Sex Offender Registration Act³ and to promulgate reasonable rules and regulations necessitated thereby; and
9. to exercise other duties which may be assigned by the Director in order to fulfill the responsibilities and achieve the purposes of the Department.

(b) There is hereby established in the Division of Criminal Investigation the Office of Coordination of Gang Prevention, hereafter referred to as the Office.

2630/2. Records of convicted persons

§ 2. The Department shall procure and file for record, as far as can be procured from any source, photographs, all plates, outline pictures, measurements, descriptions and information of all persons who have been arrested on a charge of violation of a penal statute of this State and such other information as is necessary and helpful to plan programs of crime prevention, law enforcement and criminal justice, and aid in the furtherance of those programs.

2630/2.1. Arrest, charge, disposition, fingerprint and corrections information—Notice

§ 2.1. For the purpose of maintaining complete and accurate criminal records of the Department of State Police, it is necessary for all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible. Unless otherwise noted herein, it shall be the duty of all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and the State's Attorney of each county to report such information as provided in this Section, both in the form and manner required by the Department and within 30 days of the criminal history event. Specifically:

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(a) **Arrest Information.** All agencies making arrests for offenses which are required by statute to be collected, maintained or disseminated by the Department of State Police shall be responsible for furnishing daily to the Department fingerprints, charges and descriptions of all persons who are arrested for such offenses. All such agencies shall also notify the Department of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other agencies for the purpose of furnishing daily such fingerprints, charges and descriptions to the Department upon its behalf.

(b) **Charge Information.** The State's Attorney of each county shall notify the Department of all charges filed, including all those added subsequent to the filing of a case, and whether charges were not filed in cases for which the Department has received information required to be reported pursuant to paragraph (a) of this Section.

(c) **Disposition Information.** The clerk of the circuit court of each county shall furnish the Department, in the form and manner required by the Supreme Court, with all final dispositions of cases for which the Department has received information required to be reported pursuant to paragraphs (a) or (d) of this Section. Such information shall include, for each charge, all (1) judgments of not guilty, judgments of guilty including the sentence pronounced by the court, discharges and dismissals in the court; (2) reviewing court orders filed with the clerk of the circuit court which reverse or remand a reported conviction or vacate or modify a sentence; (3) continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections¹ or an order of probation granted under Section 10 of the Cannabis Control Act,² Section 410 of the Illinois Controlled Substances Act,³ Section 12-4.3 of the Criminal Code of 1961,⁴ Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act,⁵ or Section 10 of the Steroid Control Act,⁶ and (4) judgments terminating or revoking a sentence to probation, supervision or conditional discharge and any resentencing after such revocation.

(d) **Fingerprints After Sentencing.** (1) After the court pronounces sentence, or issues an order of supervision or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, or Section 10 of the Steroid Control Act, for any offense which is required by statute to be collected, maintained, or disseminated by the Department of State Police, the State's Attorney of each county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court shall so order the requested fingerprinting, if it determines that any such person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the Department daily.

(2) After the court pronounces sentence for any offense which is not required by statute to be collected, maintained, or disseminated by the Department of State Police, the prosecuting attorney may ask the court to order a law enforcement agency to fingerprint immediately all persons

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appearing before the court who have not previously been fingerprinted for the same case. The court may so order the requested fingerprinting, if it determines that any so sentenced person has not previously been fingerprinted for the same case. The law enforcement agency may retain such fingerprints in its files.

(e) Corrections Information. The Illinois Department of Corrections and the sheriff of each county shall furnish the Department with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of an individual who has been sentenced to the agency's custody for any offenses which are mandated by statute to be collected, maintained or disseminated by the Department of State Police. For an individual who has been charged with any such offense and who escapes from custody or dies while in custody, all information concerning the receipt and escape or death, whichever is appropriate, shall also be so furnished to the Department.

2630/3.1. Conviction records—Registration and licensing of private detectives and security officers

§ 3.1. (a) The Department may furnish, pursuant to positive identification, records of convictions to the Department of Professional Regulation for the purpose of meeting registration or licensure requirements under The Private Detective, Private Alarm, and Private Security Act of 1983.¹

(b) The Department may furnish, pursuant to positive identification, records of convictions to policing bodies of this State for the purpose of assisting local liquor control commissioners in carrying out their duty to refuse to issue licenses to persons specified in paragraphs (4), (5) and (6) of Section 6-2 of The Liquor Control Act of 1934.²

(c) The Department shall charge an application fee, based on actual costs, for the dissemination of records pursuant to this Section. Fees received for the dissemination of records pursuant to this Section shall be deposited in the State Police Services Fund. The Department is empowered to establish this fee and to prescribe the form and manner for requesting and furnishing conviction information pursuant to this Section.

(d) Any dissemination of any information obtained pursuant to this Section to any person not specifically authorized hereby to receive or use it for the purpose for which it was disseminated shall constitute a violation of Section 7.

ACT 2630. CRIMINAL IDENTIFICATION ACT**2630/2.1. Arrest, charge, disposition, fingerprint and corrections information—Notice****Cross References**

Child abandonment, probation, see 720 ILCS
5/12-22.

2630/3. Information to be furnished peace officers and commanding officers of certain military installations in Illinois

§ 3. (A) The Department shall file or cause to be filed all plates, photographs, outline pictures, measurements, descriptions and information which shall be received by it by virtue of its office and shall make a complete and systematic record and index of the same, providing thereby a method of convenient reference and comparison. The Department shall furnish, upon application, all information pertaining to the identification of any person or persons, a plate, photograph, outline picture, description, measurements, or any data of which there is a record in its office. Such information shall be furnished to peace officers of the United States, of other states or territories, of the Insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois, to investigators of the Illinois Local Governmental Law Enforcement Officers Training Board and, conviction information only, to units of local government, school districts and private organizations, under the provisions of Section 55a of The Civil Administrative Code of Illinois.¹ Applications shall be in writing and accompanied by a certificate, signed by the peace officer or chief administrative officer or his designee making such application, to the effect that the information applied for is necessary in the interest of and will be used solely in the due administration of the criminal laws or for the purpose of evaluating the qualifications and character of employees or prospective employees of units of local government and school districts and of employees, prospective employees, volunteers or prospective volunteers of such private organizations.

For the purposes of this subsection, "chief administrative officer" is defined as follows:

- a) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.
- b) The manager of a village or, if a village does not employ a manager, the president of the village.
- c) The chairman or president of a county board or, if a county has adopted the county executive form of government, the chief executive officer of the county.
- d) The president of the school board of a school district.
- e) The supervisor of a township.
- f) The official granted general administrative control of a special district, an authority, or organization of government establishment by law which may issue obligations and which either may levy a property tax or may expend funds of the district, authority, or organization independently of any parent unit of government.
- g) The executive officer granted general administrative control of a private organization defined in subsection 27 of Section 55a of The Civil Administrative Code of Illinois.

(B) Upon written application and payment of fees authorized by this subsection, State agencies and units of local government, not including school districts, are authorized to submit fingerprints of employees, prospective employees and license applicants to the Department for the purpose of obtaining conviction information maintained by the Department and the Federal Bureau of Investigation about such persons. The Department shall submit such fingerprints to the Federal Bureau of Investigation on behalf of such agencies and units of local government. The Department shall charge an application fee, based on actual costs, for the dissemination of conviction information pursuant to this subsection. The Department is empowered to establish this fee and shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this subsection.

(C) Upon payment of fees authorized by this subsection, the Department shall furnish to the commanding officer of a military installation in Illinois having an arms storage facility, upon written request of such commanding officer or his designee, and in the form and manner prescribed by the Department, all criminal history record information pertaining to any individual seeking access to such a storage facility, where such information is sought pursuant to a federally-mandated security or criminal history check.

The Department shall establish and charge a fee, not to exceed actual costs, for providing information pursuant to this subsection.

Amended by P.A. 88-461, § 5, eff. Aug. 20, 1993.

records of the arresting authority and the Department and order that the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act,⁵ but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal the records, and the fee shall be deposited into the State Police Services Fund. The records of those arrests, however, that result in a disposition of (i) supervision for any offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the court until 2 years after discharge and dismissal of supervision; and (ii) those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, 11-501 or 11-503 of the Illinois Vehicle Code⁶ or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961,⁷ or probation under Section 10 of the Cannabis Control Act,⁸ Section 410 of the Illinois Controlled Substances Act,⁹ Section 12-4.3 b(1) and (2) of the Criminal Code of 1961,¹⁰ Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act¹¹ when the judgment of conviction has been vacated, or Section 10 of the Steroid Control Act¹² shall not be expunged from the records of the arresting authority nor impounded by the court until 5 years after termination of probation or supervision. All records set out above may be ordered by the court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall not be expunged by the Department, but shall, on court order be sealed by the Department and may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

(b) Whenever a person has been convicted of a crime or of the violation of a municipal ordinance, in the name of a person whose identity he has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority; the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the clerk of the circuit court shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used. For purposes of this Section, convictions for moving and nonmoving traffic violations other than convictions for violations of Chapter 4 and Section 11-204.1 of the Illinois Vehicle Code shall not be a bar to expunging the record of arrest and court records for violation of a misdemeanor or municipal ordinance.

(c) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by

the Department only as required by law or to the arresting authority, the States Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person who was pardoned.

(d) Notice of the petition for subsections (a), (b), and (c) shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government affecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to the petition within 30 days from the date of the notice, the court shall enter an order granting or denying the petition. The clerk of the court shall promptly mail a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge.

(e) Nothing herein shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, or Section 10 of the Steroid Control Act.

(f) No court order issued pursuant to the expungement provisions of this Section shall become final for purposes of appeal until 30 days after notice is received by the Department. Any court order contrary to the provisions of this Section is void.

(g) The court shall not order the sealing or expungement of the arrest records and records of the circuit court clerk of any person granted supervision for or convicted of any sexual offense committed against a minor under 18 years of age. For the purposes of this Section, "sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

2630/3.2. Firearm injury; notification of treatment.

§3.2. It is the duty of any person conducting or operating a medical facility, or any physician or nurse as soon as treatment permits to notify the local law enforcement agency of that jurisdiction upon the application for treatment of a person who is not accompanied by a law enforcement officer, when it reasonably appears that the person requesting treatment has received:

- (1) any injury resulting from the discharge of a firearm; or
- (2) any injury sustained in the commission of or as a victim of a criminal offense.

Any hospital, physician or nurse shall be forever held harmless from any civil liability for their reasonable compliance with the provisions of this Section. (Source: P.A. 86-1475.) [Formerly Ill. Rev. Stat. 38 §206-3.2.]

2630/4. Identification systems.

§4. The Department may use the following systems of identification: The Bertillion system, the finger print system, and any system of measurement or identification that may be adopted by law or rule in the various penal institutions or bureaus of identification wherever located.

The Department shall make a record consisting of duplicates of all measurements, processes, operations, signallitic cards, plates, photographs, outline pictures, measurements, descriptions of and data relating to all persons confined in penal institutions wherever located, so far as the same are obtainable, in accordance with whatever system or systems may be found most efficient and practical. (Source: Laws 1957, p. 1422.) [Formerly Ill. Rev. Stat. 38 §206-4.]

2630/5. Records of arrest furnished to Department; expungement; correction; serving of notice of petition.

§5. (a) All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints and descriptions, of all persons who are arrested on charges of violating any penal statute of this State, for offenses that are classified as felonies and Class A or B misdemeanors, of all minors who have been arrested or taken into custody before their 17th birthday for an offense that if committed by an adult would constitute the offense of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 [720 ILCS 5/24-1] or a forcible felony as defined in Section 2-8 of the Criminal Code of 1961 [720 ILCS 5/2-8]. Moving or nonmoving traffic violations under the Illinois Vehicle Code [625 ILCS 5/1-100 et seq.] shall not be reported except for violations of Chapter 4 and Section 11-204.1 of that Code [625 ILCS 5/1-100 et seq. and 5/11-204.1]. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported. Whenever an adult or minor prosecuted as an adult, not having previously been convicted of any criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, whether the acquittal or release occurred before, on, or after the effective date of this amendatory Act of 1991, the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial may upon verified petition of the defendant order the record of arrest expunged from the official records of the arresting authority and the Department and order that the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act [705 ILCS 105/16], but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal the records, and the fee shall be deposited into the State Police Services Fund. The records of those arrests, however, that result in a disposition of (i) supervision for any offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the court until 2 years after discharge and dismissal of supervision; and (ii) those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, 11-501 or 11-503 of the Illinois Vehicle Code [625 ILCS 5/3-707, 5/3-708, 5/3-710, 5/5-401.3, 5/11-501 or 5/11-503] or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961 [720 ILCS 5/12-3.2, 5/12-15 or 5/16A-3], or probation under Section 10 of the Cannabis Control Act [720 ILCS 550/10], Section 410 of the Illinois Controlled Substances Act [720 ILCS 570/410], Section 12-4.3 b(1) and (2) of the Criminal Code of 1961 [720 ILCS 5/12-4.3], Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act [720 ILCS 305/10-102] when the judgment of conviction has been vacated, or Section 10 of the Steroid Control Act [repealed] shall not be expunged from the records of the arresting authority nor impounded by the court until 5 years after termination of probation or supervision. All records set out above may be ordered by the court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall not be expunged by

the Department, but shall, on court order be sealed by the Department and may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

(b) Whenever a person has been convicted of a crime or of the violation of a municipal ordinance, in the name of a person whose identity he has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the clerk of the circuit court clerk* shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used. For purposes of this Section, convictions for moving and nonmoving traffic violations other than convictions for violations of Chapter 4 and Section 11-204.1 of the Illinois Vehicle Code shall not be a bar to expunging the record of arrest and court records for violation of a misdemeanor or municipal ordinance.

*So in original.

(c) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person who was pardoned.

**So in original. Probably should be "State's".*

(d) Notice of the petition for subsections (a), (b), and (c) shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government affecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to the petition within 30 days from the date of the notice, the court shall enter an order granting or denying the petition. The clerk of the court shall promptly mail a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge.

(e) Nothing herein shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, or Section 10 of the Steroid Control Act.

(f) No court order issued pursuant to the expungement provisions of this Section shall become final for purposes of appeal until 30 days after notice is received by the Department. Any court order contrary to the provisions of this Section is void.

(Chgd. by P.A. 87-963, §1, eff. 8/28/92; P.A. 87-1230, §5, eff. 7/1/93.)
(Source: P.A. 86-575; 86-1269; 87-448; 87-548; 87-761; 87-895.) [Formerly Ill. Rev. Stat. 38 §206-5.]

2630/5.1. Reporting of domestic crime.

§5.1. Reporting of domestic crime. All law enforcement agencies in Illinois which have received complaints and had its officers investigate any alleged commission of a domestic crime, shall indicate the incidence of any alleged commission of said crime with the Department through the Illinois Uniform Crime Reporting System as part of the data reported pursuant to Section 8 of this Act (20 ILCS 2630/8).

Domestic crime for the purposes of this Section means any crime attempted or committed between husband and wife or between members of the same family or household.
(Source: P.A. 81-921.) [Formerly Ill. Rev. Stat. 38 §206-5.1.]

2630/7. Records not to be public

§ 7. No file or record of the Department hereby created shall be made public, except as provided in the "Illinois Uniform Conviction Information Act" or other Illinois law or as may be necessary in the identification of persons suspected or accused of crime and in their trial for offenses committed after having been imprisoned for a prior offense; and no information of any character relating to its records shall be given or furnished by said Department to any person, bureau or institution other than as provided in this Act or other State law, or when a governmental unit is required by state or federal law to consider such information in the performance of its duties. Violation of this Section shall constitute a Class A misdemeanor.

However, if an individual requests the Department to release information as to the existence or nonexistence of any criminal record he might have, the Department shall do so upon determining that the person for whom the record is to be released is actually the person making the request. The

Department shall establish reasonable fees and rules to allow an individual to review and correct any criminal history record information the Department may hold concerning that individual upon verification of the identity of the individual. Such rulemaking is subject to the provisions of the Illinois Administrative Procedure Act.²

2630/8. Crime statistics

§ 8. The Department shall be a central repository and custodian of crime statistics for the State and it shall have all power incident thereto to carry out the purposes of this Act, including the power to demand and receive cooperation in the submission of crime statistics from all units of government. On an annual basis, the Illinois Criminal Justice Information Authority shall make available compilations published by the Authority of crime statistics required to be reported by each policing body of the State, the clerks of the circuit court of each county, the Illinois Department of Corrections, the Sheriff of each county, and the State's Attorney of each county, including, but not limited to, criminal arrest, charge and disposition information.

2635/1. Short title

§ 1. Short Title. This Act shall be known and may be cited as the "Illinois Uniform Conviction Information Act."

2635/2. Legislative findings and purposes

§ 2. Legislative Findings and Purposes. (A) The legislature finds and hereby declares that conviction information maintained by the Illinois Department of State Police shall be publicly available in the State of Illinois.

(B) The purpose of this Act is: (1) to establish uniform policy for gaining access to and disseminating conviction information maintained by the State of Illinois; (2) to establish guidelines and priorities which fully support effective law enforcement and ongoing criminal investigations and which ensure that conviction information is made accessible within appropriate

time frames; (3) to ensure the accuracy and completeness of conviction information in the State of Illinois; and (4) to establish procedures for effectively correcting errors and providing individuals with redress of grievances in the event that inaccurate or incomplete information may be disseminated about them.

P.A. 85-922, § 2, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1602.

2635/3. Definitions

§ 3. Definitions. Whenever used in this Act, and for the purposes of this Act, unless the context clearly indicates otherwise:

(A) "Accurate" means factually correct, containing no mistake or error of a material nature.

(B) The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pre-trial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information.

(C) "The Authority" means the Illinois Criminal Justice Information Authority.

(D) "Automated" means the utilization of computers, telecommunication lines, or other automatic data processing equipment for data collection or storage, analysis, processing, preservation, maintenance, dissemination, or display and is distinguished from a system in which such activities are performed manually.

(E) "Complete" means accurately reflecting all the criminal history record information about an individual that is required to be reported to the Department pursuant to Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹

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(F) "Conviction information" means data reflecting a judgment of guilt or nolo contendere. The term includes all prior and subsequent criminal history events directly relating to such judgments, such as, but not limited to: (1) the notation of arrest; (2) the notation of charges filed; (3) the sentence imposed; (4) the fine imposed; and (5) all related probation, parole, and release information. Information ceases to be "conviction information" when a judgment of guilt is reversed or vacated.

For purposes of this Act, continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections² or an order of probation granted under either Section 10 of the Cannabis Control Act,³ Section 410 of the Illinois Controlled Substances Act,⁴ Section 12-4.3 of the Criminal Code of 1961,⁵ Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act,⁶ or Section 10 of the Steroid Control Act⁷ shall not be deemed "conviction information".

2635/4. Applicability

§ 4. Applicability. (A) The provisions of this Act shall apply only to conviction information mandated by statute to be reported to or to be collected, maintained, or disseminated by the Department of State Police.

(B) The provisions of this Act shall not apply to statistical information.

(C) In the event of conflict between the application of this Act and the statutes listed in paragraphs (1), (2), (3), (4), or (5) below, the statutes listed below, as hereafter amended, shall control unless specified otherwise:

(1) The Juvenile Court Act;¹ or

(2) Section 5-3-4 of the Unified Code of Corrections;² or

(3) Paragraph (4) of Section 12 of "An Act providing for a system of probation, for the appointment and compensation of probation officers, and authorizing the suspension of final judgment and the imposition of sentence upon persons found guilty of certain defined crimes and offenses, and legalizing their ultimate discharge without punishment", approved June 10, 1911, as amended;³ or

(4) Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended;⁴ or

(5) "An Act in relation to pretrial services",⁵ certified January 5, 1987.

2635/5. Public availability of conviction information

§ 5. Public Availability of Conviction Information. All conviction information mandated by statute to be collected and maintained by the Department of State Police shall be open to public inspection in the State of Illinois. All persons, state agencies and units of local government shall have access to inspect, examine and reproduce such information, in accordance with this Act, and shall have the right to take memoranda and abstracts concerning such information, except to the extent that the provisions of this Act or other Illinois statutes might create specific restrictions on the use or disclosure of such information.

2635/6. Dissemination time frames and priorities

§ 6. Dissemination Time Frames and Priorities. (A) The Department's duty and obligation to furnish criminal history record information to peace

officers and criminal justice agencies shall take precedence over any requirement of this Act to furnish conviction information to non-criminal justice agencies or to the public. When, in the judgment of the Director, such duties and obligations are being fulfilled in a timely manner, the Department shall furnish conviction information to requesters in accordance with the provisions of this Act. The Department may give priority to requests for conviction information from non-criminal justice agencies over other requests submitted pursuant to this Act.

(B) The Department shall attempt to honor requests for conviction information made pursuant to this Act in the shortest time possible. Subject to the dissemination priorities of subsection (A) of this Section, the Department shall respond to a request for conviction information within 2 weeks from receipt of a request.

P.A. 85-922, § 6, eff. Jan. 1, 1991.
Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1606.

2635/7. Restrictions on the use of conviction information

§ 7. Restrictions on the Use of Conviction Information. (A) The following provisions shall apply to requests submitted pursuant to this Act for employment or licensing purposes or submitted to comply with the provisions of subsection (B) of this Section:

(1) A requester shall, in the form and manner prescribed by the Department, submit a written application to the Department, signed by the individual to whom the information request pertains. The Department shall furnish the requester with 2 copies of its response.

(2) Each requester of conviction information furnished by the Department shall provide the individual named in the request with a copy of the response furnished by the Department. Within 7 working days of receipt of such copy, the individual shall have the obligation and responsibility to notify the requester if the information is inaccurate or incomplete.

(3) Unless notified by the individual named in the request or by the Department that the information furnished is inaccurate or incomplete, no requester of conviction information shall be liable for damages to any person to whom the information pertains for actions the requester may reasonably take in reliance on the accuracy and completeness of conviction information received from the Department pursuant to this act, if: (a) the requester in good faith believes the conviction information furnished by the Department to be accurate and complete; (b) the requester has complied with the requirements of paragraphs (1) and (2) of this subsection (A); and (c) the identifying information submitted by the requester to the Department is accurate with respect to the individual about whom the information was requested.

(4) Consistent with rules adopted by the Department pursuant to Section 7 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended,¹ the individual to whom the conviction information pertains may initiate proceedings directly with the Department to challenge or correct a record furnished by the Department pursuant to this subsection

2635/9. Procedural requirements for disseminating conviction information

§ 9. Procedural Requirements for Disseminating Conviction Information.

(A) In accordance with the time parameters of Section 6 and the requirements of subsections (B) and (C) of this Section 9, the Department shall either: (1) transmit conviction information to the requester, including an explanation of any code or abbreviation; (2) explain to the requester why the information requested cannot be transmitted; or (3) inform the requester of any deficiency in the request.

(B) Before disseminating conviction information pursuant to this Act, the Department shall first conduct a formal update inquiry and review to make certain that the information to be disseminated is complete, except (1) in cases of exigency, (2) upon request by another criminal justice agency, (3) for conviction information that is less than 30 days old, or (4) for information intentionally fabricated upon the express written authorization of the Director of State Police to support undercover law enforcement efforts.

(C) It shall be the responsibility of the Department to retain a record of every extra-agency dissemination of conviction information for a period of not less than 3 years. Such records shall be subject to audit by the Department, and shall, upon request, be supplied to the individual to whom the information pertains for requests from members of the general public, corporations, organizations, employers, employment agencies, labor organizations and non-criminal justice agencies. At a minimum, the following information shall be recorded and retained by the Department:

- (1) The name of the individual to whom the disseminated information pertains;
- (2) The name of the individual requesting the information;
- (3) The date of the request;
- (4) The name and address of the private individual, corporation, organization, employer, employment agency, labor organization or non-criminal justice agency receiving the information;
- (5) The date of the dissemination; and
- (6) The name of the Department employee releasing the information.

2635/10. Dissemination requests based upon fingerprint identification

§ 10. Dissemination Requests Based Upon Fingerprint Identification. When fingerprint identification accompanies a request for conviction information maintained by the Department, an appropriate statement shall be issued by the Department indicating that the information furnished by the Department positively pertains to the individual whose fingerprints were submitted and that the response contains all the conviction information that

has been reported to the Department pursuant to Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹

2635/11. Dissemination requests not based upon fingerprint identification

§ 11. Dissemination Requests Not Based Upon Fingerprint Identification.
(A) When a requester is not legally mandated to submit positive fingerprint identification to the Department or when a requester is precluded from submitting positive fingerprint identification to the Department due to exigency, an appropriate warning shall be issued by the Department indicating that the information furnished cannot be identified with certainty as pertaining to the individual named in the request and may only be relied upon as being accurate and complete if the requester has first complied with the requirements of subsection (B) of Section 7.

(B) If the identifying information submitted by the requester to the Department corresponds to more than one individual found in the files maintained by the Department, the Department shall not disclose the information to the requester, unless it is determined by the Department that dissemination is still warranted due to exigency or to administer the criminal laws. In such instances, the Department may require the requester to submit additional identifying information or fingerprints in the form and manner prescribed by the Department.

2635/12. Error notification and correction procedure

§ 12. Error Notification and Correction Procedure. It is the duty and responsibility of the Department to maintain accurate and complete criminal history record information and to correct or update such information after determination by audit, individual review and challenge procedures, or by other verifiable means, that it is incomplete or inaccurate. Except as may be required for a longer period of time by Illinois law, the Department shall notify a requester if a subsequent disposition of conviction or a subsequent modification of conviction information has been reported to the Department within 30 days of responding to the requester.

P.A. 85-922, § 12, eff. Jan. 1, 1991.
Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1612.

2635/13. Limitation on further dissemination

§ 13. Limitation on Further Dissemination. Unless otherwise permitted by law or in the case of exigency, the subsequent dissemination of conviction information furnished by the Department pursuant to this Act shall only be permitted by a requester for the 30 day period immediately following receipt

of the information. Except as permitted in this Section, any requester still wishing to further disseminate or to rely on the accuracy and completeness of conviction information more than 30 days from receipt of the information from the Department shall request that the Department conduct a formal update inquiry and review to verify that the information originally provided is still accurate and complete.

2635/14. Judicial remedies

§ 14. Judicial Remedies. (A) The Attorney General or a State's Attorney may bring suit in the circuit courts to prevent and restrain violations of this Act and to enforce the reporting provisions of Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹ The Department may request the Attorney General to bring any such action authorized by this subsection.

(B) An individual aggrieved by a violation of this Act by a State agency or unit of local government shall have the right to pursue a civil action for damages or other appropriate legal or equitable remedy, including an action to compel the Department to disclose or correct conviction information in its files, once administrative remedies have been exhausted.

(C) Any civil action for damages alleging the negligent dissemination of inaccurate or incomplete conviction information by a State agency or by a unit of local government in violation of this Act may only be brought against the State agency or unit of local government and shall not be brought against any employee or official thereof.

(D) Civil remedies authorized by this Section may be brought in any circuit court of the State of Illinois in the county in which the violation occurs or in the county where the State agency or unit of local government is situated; except all damage claims against the State of Illinois for violations of this Act shall be determined by the Court of Claims.

2635/15. Civil damages

§ 15. Civil Damages. (A) In any action brought pursuant to this Act, an individual aggrieved by any violation of this Act shall be entitled to recover actual and general compensatory damages for each violation, together with costs and attorney's fees reasonably incurred, consistent with Section 16 of this Act. In addition, an individual aggrieved by a willful violation of this Act shall be entitled to recover \$1,000. In addition, an individual aggrieved by a non-willful violation of this Act for which there has been dissemination of inaccurate or incomplete conviction information shall be entitled to recover

\$200; provided, however, if conviction information is determined to be incomplete or inaccurate, by audit, by individual review and challenge procedures, or by other verifiable means, then the individual aggrieved shall only be entitled to recover such amount if the Department fails to correct the information within 30 days.

(B) For the purposes of this Act, the State of Illinois shall be liable for damages as provided in this Section and for attorney's fees and litigation costs as provided in Section 16 of this Act. All damage claims against the State of Illinois or any of its agencies for violations of this Act shall be determined by the Court of Claims.

(C) For purposes of limiting the amount of civil damages that may be assessed against the State of Illinois or a unit of local government pursuant to this Section, a State agency, a unit of local government, and the officials or employees of a State agency or a unit of local government may in good faith rely upon the assurance of another State agency or unit of local government that conviction information is maintained or disseminated in compliance with the provisions of this Act. However, such reliance shall not constitute a defense with respect to equitable or declaratory relief.

(D) For purposes of limiting the amount of damages that may be assessed against the State of Illinois pursuant to this Section, the Department may in good faith presume that the conviction information reported to it by a clerk of the circuit court or a criminal justice agency is accurate. However, such presumption shall not constitute a defense with respect to equitable or declaratory relief.

P.A. 85-922, § 15, eff. Jan. 1, 1991.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1615.

2635/16. Attorney's fees and costs

§ 16. Attorney's Fees and Costs. (A) Attorney's fees and other costs shall be awarded to any plaintiff who obtains declaratory, equitable, or injunctive relief. The amount awarded shall represent the reasonable value of the services rendered, taking into account all the surrounding circumstances, including but not limited to: the amount of attorney time and other disbursements determined by the court to be reasonably required by the nature of the case; the benefit rendered to the public; the skill demanded by the novelty or complexity of the issues; and the need to encourage the enforcement of this Act.

(B) Attorney's fees and other costs shall, consistent with subsection (A) of this Section, also be awarded to any plaintiff who obtains monetary relief for damages. However, in no event shall such an award exceed the actual amount of monetary damages awarded to the plaintiff.

(C) The court shall, consistent with subsection (A) of this Section, assess attorney's fees and litigation costs reasonably incurred by the State, a unit of local government, or government official or employee to defend against any private party or parties bringing an action pursuant to this Act, upon the court's determination that the action was brought in bad faith or is malicious, vexatious, or frivolous in nature.

2635/17. Administrative sanctions

§ 17. Administrative Sanctions. The Department shall refuse to comply with any request to furnish conviction information maintained in its files, if the requester has not acted in accordance with the requirements of this Act or rules and regulations issued pursuant thereto. The requester may appeal such a refusal by the Department to the Director. Upon written application by the requester, the Director shall hold a hearing to determine whether dissemination of the requested information would be in violation of this Act or rules and regulations issued pursuant to it or other federal or State law pertaining to the collection, maintenance or dissemination of criminal history record information. When the Director finds such a violation, the Department shall be prohibited from disseminating conviction information to the requester, under such terms and conditions and for such periods of time as the Director deems appropriate.

2635/18. Criminal penalties

§ 18. Criminal Penalties. Any person who intentionally and knowingly (A) requests, obtains, or seeks to obtain conviction information under false pretenses, or (B) disseminates inaccurate or incomplete conviction information in violation of this Act, or (C) fails to disseminate or make public conviction information as required under this Act, or (D) fails to correct or update a conviction record after it is determined by audit, by individual review and challenge procedures, or by other verifiable means to be inaccurate or incomplete for the purpose of causing harm to the individual named in the request or to whom the information pertains, or (E) violates any other provision of this Act, shall for each offense be guilty of a Class A misdemeanor.

2635/19. Coordinating and implementing policy

§ 19. Coordinating and Implementing Policy. The Department shall adopt rules to prescribe the appropriate form, manner and fees for complying with the requirements of this Act. The Authority shall adopt rules to prescribe form, manner and maximum fees which the Authority is authorized to establish pursuant to subsection (B) of Section 8 of this Act. Such rulemaking is subject to the provisions of the Illinois Administrative Procedure Act.¹

2635/20. State liability and indemnification of units of local government

§ 20. State Liability and Indemnification of Units of Local Government. (A) The State of Illinois shall guarantee the accuracy and completeness of conviction information disseminated by the Department that is based upon fingerprint identification. The State of Illinois shall not be liable for the accuracy and completeness of any information disseminated upon identifying information other than fingerprints.

(B) The State of Illinois shall indemnify a clerk of the circuit court, a criminal justice agency, and their employees and officials from, and against, all damage claims brought by others due to dissemination by the Department of inaccurate or incomplete conviction information based upon positive fingerprint identification, provided that the conviction information in question was initially reported to the Department accurately and in the timely manner mandated by Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹

2635/21. Audits

§ 21. Audits. The Department shall regularly conduct representative audits of the criminal history record keeping and criminal history record reporting policies, practices, and procedures of the repositories for such information in Illinois to ensure compliance with the provisions of this Act and Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹ The findings of such audits shall be reported to the Governor, General Assembly, and, upon request, to members of the general public.

2635/22. Supplementary remedies

§ 22. Supplementary Remedies. The remedies provided in this Act are supplementary to, and in no way modify or supplant, any other applicable causes of action arising under the Constitution, statutes, or common law of the State of Illinois.

2635/23. Construction

§ 23. Construction. (A) The provisions of this Act shall be construed to afford the maximum feasible protection to the individual's right to privacy and enjoyment of his good name and reputation and shall be construed to apply to both manual and automated criminal history record information systems wherever possible.

(B) The provisions of this Act shall be construed to make government agencies accountable to individuals in the collection, use, and dissemination of conviction information based upon positive fingerprint identification relating to them.

(C) Nothing in this Act shall be construed as restricting or prohibiting the dissemination of criminal history record information to a requesting criminal justice agency or peace officer or the dissemination of local criminal history record information maintained by criminal justice agencies on behalf of units of local government to members of the general public requesting such information.

P.A. 85-922, § 23, eff. Jan. 1, 1991.
Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 1623.

2635/24. Statute of limitations

§ 24. Statute of Limitations. Any cause of action arising under this Act shall be barred unless brought within 3 years from the date of the violation of the Act or within 3 years from the date the plaintiff should reasonably have known of its violation, whichever is later.

ACT 2635. ILLINOIS UNIFORM CONVICTION INFORMATION ACT

2635/3. Definitions

§ 3. Definitions. Whenever used in this Act, and for the purposes of this Act, unless the context clearly indicates otherwise:

(A) "Accurate" means factually correct, containing no mistake or error of a material nature.

(B) The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pretrial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information.

(C) "The Authority" means the Illinois Criminal Justice Information Authority.

(D) "Automated" means the utilization of computers, telecommunication lines, or other automatic data processing equipment for data collection or storage, analysis, processing, preservation, maintenance, dissemination, or display and is distinguished from a system in which such activities are performed manually.

(E) "Complete" means accurately reflecting all the criminal history record information about an individual that is required to be reported to the Department pursuant to Section 2.1 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended.¹

(F) "Conviction information" means data reflecting a judgment of guilt or nolo contendere. The term includes all prior and subsequent criminal history events directly relating to such judgments, such as, but not limited to: (1) the notation of arrest; (2) the notation of charges filed; (3) the sentence imposed; (4) the fine imposed; and (5) all related probation, parole, and release information. Information ceases to be "conviction information" when a judgment of guilt is reversed or vacated.

For purposes of this Act, continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections² or an order of probation granted under either Section 10 of the Cannabis Control Act,³ Section 410 of the Illinois Controlled Substances Act,⁴ Section 12-4.3 of the Criminal Code of 1961,⁵ Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act,⁶ or Section 10 of the Steroid Control Act⁷ shall not be deemed "conviction information".

(G) "Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pretrial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individual are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

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(H) "Criminal justice agency" means (1) a government agency or any subunit thereof which is authorized to administer the criminal laws and which allocates a substantial part of its annual budget for that purpose, or (2) an agency supported by public funds which is authorized as its principal function to administer the criminal laws and which is officially designated by the Department as a criminal justice agency for purposes of this Act.

(I) "The Department" means the Illinois Department of State Police.

(J) "Director" means the Director of the Illinois Department of State Police.

(K) "Disseminate" means to disclose or transmit conviction information in any form, oral, written, or otherwise.

(L) "Exigency" means pending danger or the threat of pending danger to an individual or property.

(M) "Non-criminal justice agency" means a State agency, Federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations.

(M-5) "Request" means the submission to the Department, in the form and manner required, the necessary data elements or fingerprints, or both, to allow the Department to initiate a search of its criminal history record information files.

(N) "Requester" means any private individual, corporation, organization, employer, employment agency, labor organization, or non-criminal justice agency that has made a request pursuant to this Act to obtain conviction information maintained in the files of the Department of State Police regarding a particular individual.

(O) "Statistical information" means data from which the identity of an individual cannot be ascertained, reconstructed, or verified and to which the identity of an individual cannot be linked by the recipient of the information.

2635/7. Restrictions on the use of conviction information

§ 7. Restrictions on the Use of Conviction Information. (A) The following provisions shall apply to requests submitted pursuant to this Act for employment or licensing purposes or submitted to comply with the provisions of subsection (B) of this Section:

(1) A requester shall, in the form and manner prescribed by the Department, submit a request to the Department, and maintain on file for at least 2 years a release signed by the individual to whom the information request pertains. The Department shall furnish the requester with a copy of its response.

(2) Each requester of conviction information furnished by the Department shall provide the individual named in the request with a copy of the response furnished by the Department. Within 7 working days of receipt of such copy, the individual shall have the obligation and responsibility to notify the requester if the information is inaccurate or incomplete.

(3) Unless notified by the individual named in the request or by the Department that the information furnished is inaccurate or incomplete, no requester of conviction information shall be liable for damages to any person to whom the information pertains for actions the requester may reasonably take in reliance on the accuracy and completeness of conviction information received from the Department pursuant to this act, if: (a) the requester in good faith believes the conviction information furnished by the Department to be accurate and complete; (b) the requester has complied with the requirements of paragraphs (1) and (2) of this subsection (A); and (c) the identifying information submitted by the requester to the Department is accurate with respect to the individual about whom the information was requested.

(4) Consistent with rules adopted by the Department pursuant to Section 7 of "An Act in relation to criminal identification and investigation", approved July 2, 1931, as amended,¹ the individual to whom the conviction information pertains may initiate proceedings directly with the Department to challenge or correct a record furnished by the Department pursuant to this subsection (A). Such correction proceedings shall be given priority over other individual record review and challenges filed with the Department.

(B) Regardless of the purpose of the request, no requester of conviction information shall be liable for damages to any person to whom the information pertains for actions the requester may reasonably take in reliance on the accuracy and completeness of conviction information received from the Department pursuant to this Act, if: (1) the requester in good faith believes the conviction information furnished by the Department to be accurate and complete; (2) the requester has complied with the requirements of paragraphs (1) and (2) of subsection (A) of this Section; and (3) the identifying information submitted by the requester to the Department is accurate with respect to the individual about whom the information was requested.

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2635/8. Form, manner and fees for requesting and obtaining conviction information

§ 8. Form, Manner and Fees for Requesting and Obtaining Conviction Information. (A) The Department shall prescribe the form and manner for requesting and furnishing conviction information pursuant to this Act. The Department shall prescribe the types of identifying information that must be submitted to the Department in order to process any request for conviction information and the form and manner for making such application, consistent with this Act.

(B) The Department shall establish the maximum fee it shall charge and assess for processing requests for conviction information, and the Authority shall establish the maximum fee that other criminal justice agencies shall charge and assess for processing requests for conviction information pursuant to this Act. Such fees shall include the general costs associated with performing a search for all information about each person for which a request is received including classification, search, retrieval, reproduction, manual and automated data processing, telecommunications services, supplies, mailing and those general costs associated with the inquiries required by subsection (B) of Section 9 and Section 13 of this Act, and, when applicable, such fees shall provide for the direct payment to or reimbursement of a criminal justice agency for assisting the requester or the Department pursuant to this Act. In establishing the fees required by this Section, the Department and the Authority may also take into account the costs relating to multiple or automated requests and disseminations and the costs relating to any other special factors or circumstances required by statute or rule. The maximum fees established by the Authority pursuant to this Section shall be reviewed annually, and may be waived or reduced at the discretion of a criminal justice agency.

2635/13. Limitation on further dissemination

§ 13. Limitation on Further Dissemination. Unless otherwise permitted by law or in the case of exigency, the subsequent dissemination of conviction information furnished by the Department pursuant to this Act shall only be permitted by a requester for the 30 day period immediately following receipt of the information. Except as permitted in this Section, any requester still wishing to further disseminate or to rely on the accuracy and completeness of conviction information more than 30 days from receipt of the information from the Department shall initiate a new request to the Department for current information .

3930/1. Short title

§ 1. Short Title. This Act shall be known and may be cited as the "Illinois Criminal Justice Information Act".

P.A. 82-1039, § 1, eff. Jan. 1, 1983.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 210-1.

3930/2. Purpose of Act

§ 2. Purpose of Act. The purpose of this Act is to coordinate the use of information in the criminal justice system; to promulgate effective criminal justice information policy; to encourage the improvement of criminal justice agency procedures and practices with respect to information; to provide new information technologies; to permit the evaluation of information practices and programs; to stimulate research and development of new methods and uses of criminal justice information for the improvement of the criminal justice system and the reduction of crime; and to protect the integrity of criminal history record information, while protecting the citizen's right to privacy.

P.A. 82-1039, § 2, eff. Jan. 1, 1983.

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 210-2.

3930/3. Definitions

§ 3. Definitions. Whenever used in this Act, and for the purposes of this Act unless the context clearly denotes otherwise:

(a) The term "criminal justice system" includes all activities by public agencies pertaining to the prevention or reduction of crime or enforcement of the criminal law, and particularly, but without limitation, the prevention, detection, and investigation of crime; the apprehension of offenders; the protection of victims and witnesses; the administration of juvenile justice; the prosecution and defense of criminal cases; the trial, conviction, and sentencing of offenders; as well as the correction and rehabilitation of offenders, which includes imprisonment, probation, parole and treatment.

(b) The term "Authority" means the Illinois Criminal Justice Information Authority created by this Act.

(c) The term "criminal justice information" means any and every type of information that is collected, transmitted, or maintained by the criminal justice system.

(d) The term "criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation, and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) The term "unit of general local government" means any county, municipality or other general purpose political subdivision of this State.

P.A. 82-1039, § 3, eff. Jan. 1, 1983. Amended by P.A. 85-653, § 1, eff. Sept. 20, 1987. Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 210-3.

3930/4. Illinois Criminal Justice Information Authority—Creation, membership and meetings

§ 4. Illinois Criminal Justice Information Authority—Creation, membership and meetings. There is created an Illinois Criminal Justice Information Authority consisting of 15 members. The membership of the Authority shall consist of the Illinois Attorney General, or his designee, the Director of the Illinois Department of Corrections, the Director of the Illinois Department of State Police, the Sheriff of Cook County, the State's Attorney of Cook County, the Superintendent of the Chicago Police Department, the Director of the Office of the State's Attorneys Appellate Prosecutor, and the following additional members, each of whom shall be appointed by the Governor: a sheriff and a state's attorney of a county other than Cook, a chief of police, and 5 members of the general public.

The Governor from time to time shall designate a Chairman of the Authority from the membership. All members of the Authority appointed by the Governor shall serve at the pleasure of the Governor for a term not to exceed 4 years. The initial appointed members of the Authority shall serve from January, 1983 until the third Monday in January, 1987 or until their successors are appointed.

The Authority shall meet at least quarterly, and all meetings of the Authority shall be called by the Chairman.

3930/5. No compensation—Expenses

§ 5. No Compensation—Expenses. Members of the Authority, other than the Chairman, shall serve without compensation. All members shall be reimbursed for reasonable expenses incurred in connection with their duties.

3930/6. Executive Director

§ 6. Executive Director. The Governor shall appoint an Executive Director of the Authority with the advice and consent of the Senate. The Executive Director shall employ, in accordance with the provisions of the Illinois Personnel Code,¹ such administrative, professional, clerical, and other personnel as may be required. The Executive Director may organize the staff of the Authority as he may deem appropriate.

3930/7. Powers and duties

§ 7. Powers and Duties. The Authority shall have the following powers, duties and responsibilities:

- (a) To develop and operate comprehensive information systems for the improvement and coordination of all aspects of law enforcement, prosecution and corrections;
- (b) To define, develop, evaluate and correlate State and local programs and projects associated with the improvement of law enforcement and the administration of criminal justice;
- (c) To act as a central repository and clearing house for federal, state and local research studies, plans, projects, proposals and other information relating to all aspects of criminal justice system improvement and to encourage educational programs for citizen support of State and local efforts to make such improvements;
- (d) To undertake research studies to aid in accomplishing its purposes;
- (e) To monitor the operation of existing criminal justice information systems in order to protect the constitutional rights and privacy of individuals about whom criminal history record information has been collected;
- (f) To provide an effective administrative forum for the protection of the rights of individuals concerning criminal history record information;
- (g) To issue regulations, guidelines and procedures which ensure the privacy and security of criminal history record information consistent with State and federal laws;
- (h) To act as the sole administrative appeal body in the State of Illinois to conduct hearings and make final determinations concerning individual challenges to the completeness and accuracy of criminal history record information;
- (i) To act as the sole, official, criminal justice body in the State of Illinois to conduct annual and periodic audits of the procedures, policies, and practices of the State central repositories for criminal history record information to verify compliance with federal and state laws and regulations governing such information;
- (j) To advise the Authority's Statistical Analysis Center;
- (k) To apply for, receive, establish priorities for, allocate, disburse and spend grants of funds that are made available by and received on or after January 1, 1983 from private sources or from the United States pursuant to the federal Crime Control Act of 1973, as amended,¹ and similar federal legislation, and to enter into agreements with the United States government to further the purposes of this Act, or as may be required as a condition of obtaining federal funds;
- (l) To receive, expend and account for such funds of the State of Illinois as may be made available to further the purposes of this Act;
- (m) To enter into contracts and to cooperate with units of general local government or combinations of such units, State agencies, and criminal justice system agencies of other states for the purpose of carrying out the duties of the Authority imposed by this Act or by the federal Crime Control Act of 1973, as amended;

(n) To enter into contracts and cooperate with units of general local government outside of Illinois, other states' agencies, and private organizations outside of Illinois to provide computer software or design that has been developed for the Illinois criminal justice system, or to participate in the cooperative development or design of new software or systems to be used by the Illinois criminal justice system. Revenues received as a result of such arrangements shall be deposited in the Criminal Justice Information Systems Trust Fund.

(o) To establish general policies concerning criminal justice information systems and to promulgate such rules, regulations and procedures as are necessary to the operation of the Authority and to the uniform consideration of appeals and audits;

(p) To advise and to make recommendations to the Governor and the General Assembly on policies relating to criminal justice information systems;

(q) To direct all other agencies under the jurisdiction of the Governor to provide whatever assistance and information the Authority may lawfully require to carry out its functions;

(r) To exercise any other powers that are reasonable and necessary to fulfill the responsibilities of the Authority under this Act and to comply with the requirements of applicable federal law or regulation;

(s) To exercise the rights, powers and duties which have been vested in the Authority by the "Illinois Uniform Conviction Information Act", enacted by the 85th General Assembly, as hereafter amended;² and

(t) To exercise the rights, powers and duties which have been vested in the Authority by the Illinois Motor Vehicle Theft Prevention Act.³

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended,⁴ and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.⁵

10/4. Licenses for facilities—Application—Examination of personnel and facilities—Issuance

§ 4. Any person, group of persons or corporation who or which receives children or arranges for care or placement of one or more children unrelated to the operator must apply for a license to operate one of the types of facilities defined in Sections 2.05 through 2.19 of this Act. Application for a license to operate a child care facility must be made to the Department in the manner and on forms prescribed by it. If, upon examination of the facility and investigation of persons responsible for care of children, the Department is satisfied that the facility and responsible persons reasonably meet standards prescribed for the type of facility for which application is made, it shall issue a license in proper form, designating on that license the type of child care facility and, except for a child welfare agency, the number of children to be served at any one time.

10/4.1. Criminal background investigations

§ 4.1. Criminal Background Investigations. The Department shall require that each child care facility license applicant as part of the application process, and each employee of a child care facility as a condition of employment, authorize an investigation to determine if such applicant or employee has ever been charged with a crime and if so, the disposition of those charges; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization, the Director shall request and receive information and assistance from any federal, State or local governmental agency as part of the authorized investigation. The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant or child care facility employee upon request of the Department of Children and Family Services when the request is made in the form and manner required by the Department of State Police.

Information concerning convictions of a license applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon request, to such applicant prior to final action by the Department on the application. Such information on convictions of employees or prospective employees of child care facilities licensed under this Act shall be provided to the operator of such facility, and, upon request, to the employee or prospective employee. Any information concerning criminal charges and the disposition of such charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, and may not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or a child care facility employee. Only information and standards which bear a reasonable and rational relation to the performance of a child care facility shall be used by the Department or any licensee. Any employee of the Department of Children and Family Services, Department of State Police, or a child care facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions of a child care facility applicant, or child care facility employee, shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.

A child care facility may hire, on a probationary basis, any employee authorizing a criminal background investigation under this Section, pending the result of such investigation. Employees shall be notified prior to hiring that such employment may be terminated on the basis of criminal background information obtained by the facility.

10/4.2. License or employment—Eligibility

§ 4.2. No applicant may receive a license from the Department and no person may be employed by a licensed child care facility who refuses to authorize an investigation as required by Section 4.1.

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 "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision", approved July 6, 1938, as amended,¹ or convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961:²

- (1) murder;
- (2) a sex offense under Article 11,³ except offenses described in Sections 11-7, 11-8, 11-12, 11-13 and 11-18;⁴
- (3) kidnapping;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) an offense in any other state the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

10/17.1. Judicial review**§ 17.1. Judicial Review.**

(a) Jurisdiction and venue for the judicial review of a final order of the Board relating to owners, suppliers or special event licenses is vested in the Appellate Court of the judicial district in which Sangamon County is located. A petition for judicial review of a final order of the Board must be filed in the Appellate Court, within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

(b) Judicial review of all other final orders of the Board shall be conducted in accordance with the Administrative Review Law.¹

Amended by P.A. 88-1, § 4, eff. Jan. 1, 1994.

¹ 735 ILCS 5/3-101 et seq.

10/22. Criminal history record information

§ 22. Criminal history record information. Whenever the Board 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, the Board shall, in the form and manner required by the Department of State Police and the Federal Bureau of Investigation, cause to be conducted a criminal history record investigation to obtain any information currently or thereafter contained in the files of the Department of State Police or the Federal Bureau of Investigation. The Department of State Police shall provide, on the Board's request, information concerning any criminal charges, and their disposition, currently or thereafter filed against an applicant for or holder of an occupational license. Information obtained as a result of an investigation under this Section shall be used in determining eligibility for an occupational license under Section 9. Upon request and payment of fees in conformance with the requirements of subsection 22 of Section 55a of the Civil Administrative Code of Illinois,¹ the Department of State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to fulfill the request.

Amended by P.A. 88-368, § 10, eff. Jan. 1, 1994.

¹ 20 ILCS 2605/55a.

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ACT 15. RAFFLES ACT

15/4. Conduct of raffles

§ 4. Conduct of raffles. (a) The conducting of raffles is subject to the following restrictions:

(1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home; and

(9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss. The court shall determine the amount and conditions of payment;

(10) perform some reasonable public or community service;

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986.³ If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be transmitted to the person or agency so designated by the court;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act⁴ for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of person, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act⁵ or the Illinois Controlled Substances Act,⁶ unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, 11-501, or 11-503 of the Illinois Vehicle Code⁷ or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961,⁸ in which case it shall be 5 years after discharge and dismissal.

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a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in subsection (g) of Section 5 of the Criminal Identification Act⁹ shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, may be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located may establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all offenders placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992, as a condition of supervision, a fee not to exceed \$25 for each month of supervision ordered by the court, unless after determining the inability of the person placed on supervision to pay the fee, the court assesses a lesser fee. The fee shall be imposed only upon a defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.¹⁰

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code,¹¹ or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act,¹² or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.¹³

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5/15-187. Felony conviction

§ 15-187. Felony conviction. None of the benefits provided under this Article shall be paid to any person who is

convicted of any felony relating to or arising out of or in connection with the person's service as an employee.

This Section shall not operate to impair any contract or vested right heretofore acquired under any law or laws continued in this Article, nor to preclude the right to a refund.

All persons entering service subsequent to July 9, 1955 shall be deemed to have consented to the provisions of this Section as a condition of coverage.

Laws 1963, p. 161, § 15-187, eff. July 1, 1963. Amended by P.A. 83-1440, § 1, eff. Jan. 1, 1985.

Formerly Ill.Rev.Stat.1991, ch. 108 ½, ¶ 15-187.

Gaming

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10/22. Criminal history record information

§ 22. Criminal history record information. Whenever the Board 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, the Board shall, in the form and manner required by the Department of State Police and the Federal Bureau of Investigation, cause to be conducted a criminal history record investigation to obtain any information currently or thereafter contained in the files of the Department of State Police or the Federal Bureau of Investigation. The Department of State Police shall provide, on the Board's request, information concerning any criminal charges, and their disposition, currently or thereafter filed against an applicant for or holder of an occupational license. Information obtained as a result of an investigation under this Section shall be used in determining eligibility for an occupational license under Section 9. Upon request and payment of fees in conformance with the requirements of subsection 22 of Section 55a of the Civil Administrative Code of Illinois,¹ the Department of State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to fulfill the request.

P.A. 86-1029, § 22, eff. Feb. 7, 1990. Amended by P.A. 88-368, § 10, eff. Jan. 1, 1994.

5. has demonstrated ability to exercise reasonable care in the operation of school buses in accordance with such standards as the State Superintendent of Education prescribes;

6. demonstrates physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use for each applicant not subject to such testing pursuant to federal law, conducted by a licensed physician within 90 days of the date of application according to standards promulgated by the State Superintendent of Education;

7. has not made a false statement or knowingly concealed a material fact in any application for permit;

8. has enrolled in an initial classroom course, including first aid procedures, in school bus driver safety as prescribed by the State Superintendent of Education, to be completed within 45 school days; and after satisfactory completion of said initial course an annual refresher course; such courses and the agency or organization conducting such courses shall be approved by the State Superintendent of Education; failure to complete the initial classroom course within 45 school days, or to satisfactorily complete the annual refresher course, shall result in suspension of the permit until such course is completed;

9. has not been convicted of more than 2 offenses against traffic regulations governing the movement of vehicles within one year of the date of application provided, however, that the Regional Superintendent may issue a permit to an applicant who has been convicted of 2 such offenses within one year if, after a hearing, the Regional Superintendent finds that these violations do not demonstrate careless or reckless driving habits which may endanger the life or safety of any of the driver's passengers;

10. has not been convicted of reckless driving, driving while intoxicated or reckless homicide resulting from the operation of a motor vehicle within 3 years of the date of application;

11. has never been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11, 12-13, 12-14, 12-15, 12-16, 18-1, 18-2, 20-1, 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961;¹ (ii) those offenses defined in the Cannabis Control Act² except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act;³ (iii) those offenses defined in the Illinois Controlled Substances Act;⁴ (iv) any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; and (v) the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act;⁵

12. has not been repeatedly involved as a driver in motor vehicle collisions or has not been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree which indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

625 ILCS

5/6-106.1. School bus driver permit

§ 6-106.1. School bus driver permit. (a) Upon proper application and payment of the required fee in the amount of \$4, payable to the Regional Superintendent in the county in which application is made, to be added to that Superintendent's budget and used expressly for the refresher courses for school bus operators, a school bus driver permit shall be issued, as prescribed by the State Superintendent of Education, by the Regional Superintendent to each applicant who meets the following requirements:

1. is 21 years of age or older;

2. has a valid and properly classified driver's license issued by the Secretary of State;

3. has held a valid driver's license, which has not been revoked or suspended for one or more traffic violations, for 3 years immediately prior to the date of application;

4. has successfully passed a written test, administered by the Secretary of State, on school bus operation, school bus safety and special traffic laws relating to school buses as the State Superintendent of Education prescribes, and that a review of each applicant's driving habits will be completed by the Secretary of State at the time the written test is given, and when the results of this review indicate that the applicant is not in compliance with paragraphs 9 and 10 of this Section, there will exist imminent cause for failure of the written test;

any person who works upon race track grounds within this State as a pari-mutuel clerk, parking attendant, security guard or as an employee of a concessionaire. Concessionaires of the Illinois State Fair and DuQuoin State Fair and employees of the Illinois Department of Agriculture shall not be required to obtain an occupational license by the Board.

(b) Each application for an occupation license shall be on forms prescribed by the Board. Such license, when issued, shall be for the period ending December 31 of each year, except that the Board in its discretion may grant 3-year licenses. The application shall be accompanied by a fee of not more than \$25 per year or, in the case of 3-year license applications, a fee of not more than \$60. Each applicant shall set forth in the application his full name and address, and if he had been issued prior occupation licenses or has been licensed in any other state under any other name, such name, his age, whether or not a permit or license issued to him in any other state has been suspended or revoked and if so whether such suspension or revocation is in effect at the time of the application, and such other information as the Board may require. Fees for registration of stable names shall not exceed \$50.00.

(c) The Board may in its discretion refuse an occupation license to any person:

- (1) who has been convicted of a crime;
- (2) who is unqualified to perform the duties required of such applicant;
- (3) who fails to disclose or states falsely any information called for in the application;
- (4) who has been found guilty of a violation of this Act or of the rules and regulations of the Board; or
- (5) whose license or permit has been suspended, revoked or denied for just cause in any other state.

(d) The Board may suspend or revoke any occupation license:

- (1) for violation of any of the provisions of this Act; or
- (2) for violation of any of the rules or regulations of the Board; or
- (3) for any cause which, if known to the Board, would have justified the Board in refusing to issue such occupation license; or
- (4) for any other just cause.

(e) Each applicant for licensure shall submit with his license application, on forms provided by the Board, 2 sets of his fingerprints. All such applicants shall appear in person at the location designated by the Board for the purpose of submitting such sets of fingerprints; however, with the prior approval of a State steward, an applicant may have such sets of fingerprints taken by an official law enforcement agency and submitted to the Board.

The Board shall cause one set of such fingerprints to be compared with fingerprints of criminals now or hereafter filed in the records of the Illinois Department of State Police. The Board shall also cause such fingerprints to be compared with fingerprints of criminals now or hereafter filed in the records of other official fingerprint files within or without this State.

The Board may, in its discretion, require the applicant to pay a fee for the purpose of having his fingerprints processed. The fingerprint processing fee shall be set annually by the Director of State Police, based upon actual costs.

(f) The Board may, in its discretion, issue an occupation license without submission of fingerprints if an applicant has

230 ILCS

5/15. Occupation license—Application— Duration—Fee

§ 15. (a) The Board shall, in its discretion, issue licenses to horse owners, trainers, harness drivers, jockeys, agents, apprentices, grooms, stable foremen, exercise persons, veterinarians, valets, blacksmiths, concessionaires and others designated by the Board whose work, in whole or in part, is conducted upon race track grounds within the State which are owned by race track organizations. Such licenses will be obtained prior to the persons engaging in their vocation upon such race track grounds. The Board shall not license pari-mutuel clerks, parking attendants, security guards and employees of concessionaires. No license shall be required of

625 ILCS

5/6-411. Qualifications of driver training instructors

§ 6-411. Qualifications of Driver Training Instructors. In order to qualify for a license as an instructor for a driving school, an applicant must:

- (a) Be of good moral character;
- (b) Authorize an investigation to determine if the applicant has ever been convicted of a crime and if so, the disposition of those convictions; this authorization shall indicate the scope of the inquiry and the agencies which may be contacted. Upon this authorization the Secretary of State may request and receive information and assistance from any federal, state or local governmental agency as part of the authorized investigation. The Department of State Police shall provide information concerning any criminal convictions, and their disposition, brought against the applicant upon request of the Secretary of State when the request is made in the form and manner required by the Department of State Police. The information derived from this investigation including the source of this information, and any conclusions or recommendations derived from this information by the Secretary of State shall be provided to the applicant, or his designee, upon request to the Secretary of State, prior to any final action by the Secretary of State on the application. No information obtained from such investigation may be placed in any automated information system. Any criminal convictions and their disposition information obtained by the Secretary of State shall be confidential and may not be transmitted outside the Office of the Secretary of State, except as required herein, and may not be transmitted to anyone within the Office of the Secretary of State except as needed for the purpose of evaluating the applicant. The only physical identity materials which the applicant can be required to provide the Secretary of State are photographs or fingerprints; these shall be returned to the applicant upon request to the Secretary of State, after the investigation has been completed and no copy of these materials may be kept by the Secretary of State or any agency to which such identity materials were transmitted. Only information and standards which bear a reasonable and rational relation to the performance of a driver training instructor shall be used by the Secretary of State. Any employee of the Secretary of State who gives or causes to be given away any confidential information concerning any criminal charges and their disposition of an applicant shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section;
- (c) Pass such examination as the Secretary of State shall require on (1) traffic laws, (2) safe driving practices, (3) operation of motor vehicles, and (4) qualifications of teacher;
- (d) Be physically able to operate safely a motor vehicle and to train others in the operation of motor vehicles. An instructors license application must be accompanied by a medical examination report completed by a competent physician licensed to practice in the State of Illinois;
- (e) Hold a valid Illinois drivers license;
- (f) Have graduated from an accredited high school after at least 4 years of high school education or the equivalent; and
- (g) Pay to the Secretary of State an application and license fee of \$35.

If a driver training school class room instructor teaches an approved driver education course, as defined in Section 1-103 of this Code, to students under 18 years of age, he or she shall furnish to the Secretary of State a certificate issued by the State Board of Education that the said instructor is qualified and meets the minimum educational standards for teaching driver education courses in the local public or parochial school systems, except that no State Board of Education certification shall be required of

any instructor who teaches exclusively in a commercial driving school. On and after July 1, 1986, the existing rules and regulations of the State Board of Education concerning commercial driving schools shall continue to remain in effect but shall be administered by the Secretary of State until such time as the Secretary of State shall amend or repeal the rules in accordance with The Illinois Administrative Procedure Act.¹ Upon request, the Secretary of State shall issue a certificate of completion to a student under 18 years of age who has completed an approved driver education course at a commercial driving school.

P.A. 76-1586, § 6-411, eff. July 1, 1970. Amended by P.A. 80-1447, § 1, eff. Sept. 15, 1978; P.A. 81-1508, § 8, eff. Sept. 25, 1980; P.A. 81-1509, Art. II, § 71, eff. Sept. 26, 1980; P.A. 81-1550, Art. I, § 22, eff. Jan. 8, 1981; P.A. 84-25, Art. IV, § 27, eff. July 18, 1985; P.A. 84-863, § 1, eff. July 1, 1986; P.A. 84-1308, Art. II, § 96, eff. Aug. 25, 1986; P.A. 87-829, § 1, eff. Jan. 17, 1992; P.A. 87-832, § 3, eff. Jan. 17, 1992.

Formerly Ill.Rev.Stat.1991, ch. 95 1/2, § 6-411.

¹ 5 ILCS 100/1-1 et seq.

The amendments by P.A. 87-829 and P.A. 87-832 were identical.

5/6-412. Issuance of licenses to driver training schools and driver training instructors

§ 6-412. Issuance of licenses to driver training schools and driver training instructors. The Secretary of State shall issue a license certificate to each applicant to conduct a driver training school or to each driver training instructor when the Secretary of State is satisfied that such person has met the qualifications required under this Act. P.A. 76-1586, § 6-412, eff. July 1, 1970.

Formerly Ill.Rev.Stat.1991, ch. 95 1/2, § 6-412.

5/6-413. Expiration of licenses

§ 6-413. Expiration of Licenses. All outstanding licenses issued to any driver training school or driver training instructor under this Act shall expire by operation of law 12 months from the date of issuance, unless sooner cancelled, suspended or revoked under the provisions of Section 6-420.

P.A. 76-1586, § 6-413, eff. July 1, 1970. Amended by P.A. 87-829, § 1, eff. Jan. 17, 1992; P.A. 87-832, § 3, eff. Jan. 17, 1992.

Formerly Ill.Rev.Stat.1991, ch. 95 1/2, § 6-413.

The amendments by P.A. 87-829 and P.A. 87-832 were identical.

5/6-414. Renewal of licenses

§ 6-414. Renewal of Licenses. The license of each driver training school may be renewed subject to the same conditions as the original license, and upon the payment of an annual renewal license fee of \$250.

P.A. 76-1586, § 6-414, eff. July 1, 1970. Amended by P.A. 87-829, § 1, eff. Jan. 17, 1992; P.A. 87-832, § 3, eff. Jan. 17, 1992.

Formerly Ill.Rev.Stat.1991, ch. 95 1/2, § 6-414.

The amendments by P.A. 87-829 and P.A. 87-832 were identical.

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5/14-149. Felony conviction

§ 14-149. Felony conviction. None of the benefits herein provided for shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his service as an employee.

This Section shall not operate to impair any contract or vested right heretofore acquired under any law or laws continued in this Article nor to preclude the right to a refund.

All future entrants entering service subsequent to July 9, 1955 shall be deemed to have consented to the provisions of this section as a condition of coverage.

Laws 1963, p. 161, § 14-199, eff. July 1, 1963. Renumbered § 14-149 by P.A. 80-841, § 1, eff. Jan. 1, 1978.

Formerly Ill.Rev.Stat.1991, ch. 108 1/2, ¶ 14-149.

20 ILCS

415/8b. Jurisdiction B—Merit and fitness

§ 8b. Jurisdiction B—Merit and fitness. (a) For positions in the State service subject to the jurisdiction of the Department of Central Management Services with respect to selection and tenure on the basis of merit and fitness, those matters specified in this Section and Sections 8b.1 through 8b.17.¹

(b) Application, testing and hiring procedures for all State employment vacancies for positions not exempt under Section 4c² shall be reduced to writing. The written procedures shall be provided to each State agency and university for posting and public inspection at each agency's office and each university's placement office. The Director shall also annually prepare and distribute a listing of entry level non-professional and professional positions that are most utilized by State agencies under the jurisdiction of the Governor. The position listings shall identify the entry level positions, localities of usage, description of position duties and responsibilities, salary ranges, eligibility requirements and test scheduling instructions. The position listings shall further identify special linguistic skills that may be required for any of the positions.

Laws 1955, p. 2208, § 8b, eff. July 18, 1955. Amended by Laws 1957, p. 2126, § 1, eff. July 8, 1957; Laws 1959, p. 2080, § 1, eff. July 22, 1959; Laws 1959, p. 2469, § 1, eff. July 24, 1959; Laws 1961, p. 3676, § 1, eff. Aug. 19, 1961; Laws 1963, p. 2922, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2925, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2930, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2933, § 1, eff. Aug. 15, 1963; Laws 1965, p. 838, § 1, eff. July 1, 1965; Laws 1965, p. 1340, § 1, eff. July 8, 1965; Laws 1965, p. 2731, § 1, eff. Aug. 6, 1965; Laws 1965, p. 2939, § 1, eff. Aug. 10, 1965. Resectioned and amended by Laws 1967, p. 51, § 1, eff. July 1, 1967. Amended by Laws 1967, p. 2008, § 1, eff. July 24, 1967; Laws 1967, p. 3254, § 1, eff. Aug. 18, 1967; P.A. 82-789, Art. I, § 37, eff. July 13, 1982; P.A. 86-1004, § 9, eff. July 1, 1990.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 63b108b.

¹ 20 ILCS 415/8b.1 to 415/8b.17.

² 20 ILCS 415/4c.

415/8b.1. Competitive examinations

§ 8b.1. For open competitive examinations to test the relative fitness of applicants for the respective positions.

Tests shall be designed to eliminate those who are not qualified for entrance into or promotion within the service, and to discover the relative fitness of those who are qualified. The Director may use any one of or any combination of the following examination methods which in his judgment best serves this end: investigation of education; investigation of experience; test of cultural knowledge; test of capacity; test of knowledge; test of manual skill; test of linguistic ability; test of character; test of physical fitness; test of psychological fitness. No person with a

record of misdemeanor convictions except those under Sections 11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8 and sub-sections 1, 6 and 8 of Section 24-1 of the Criminal Code of 1961¹ or arrested for any cause but not convicted thereon shall be disqualified from taking such examinations or subsequent appointment, unless the person is attempting to qualify for a position which would give him the powers of a peace officer, in which case the person's conviction or arrest record may be considered as a factor in determining the person's fitness for the position. The eligibility conditions specified for the position of Assistant Director of Public Aid in the Department of Public Aid in Section 7.08 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended,² shall be applied to that position in addition to other standards, tests or criteria established by the Director. All examinations shall be announced publicly at least 2 weeks in advance of the date of the examinations and may be advertised through the press, radio and other media. The Director may, however, in his discretion, continue to receive applications and examine candidates long enough to assure a sufficient number of eligibles to meet the needs of the service and may add the names of successful candidates to existing eligible lists in accordance with their respective ratings.

The Director may, in his discretion, accept the results of competitive examinations conducted by any merit system established by federal law or by the law of any State, and may compile eligible lists therefrom or may add the names of successful candidates in examinations conducted by those merit systems to existing eligible lists in accordance with their respective ratings. No person who is a non-resident of the State of Illinois may be appointed from those eligible lists, however, unless the requirement that applicants be residents of the State of Illinois is waived by the Director of Central Management Services and unless there are less than 3 Illinois residents available for appointment from the appropriate eligible list. The results of the examinations conducted by other merit systems may not be used unless they are comparable in difficulty and comprehensiveness to examinations conducted by the Department of Central Management Services for similar positions. Special linguistic options may also be established where deemed appropriate.

Laws 1955, p. 2208, § 8b, eff. July 18, 1955. Amended by Laws 1957, p. 2126, § 1, eff. July 8, 1957; Laws 1959, p. 2080, § 1, eff. July 22, 1959; Laws 1959, p. 2469, § 1, eff. July 24, 1959; Laws 1961, p. 3676, § 1, eff. Aug. 19, 1961; Laws 1963, p. 2922, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2925, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2930, § 1, eff. Aug. 15, 1963; Laws 1963, p. 2933, § 1, eff. Aug. 15, 1963; Laws 1965, p. 838, § 1, eff. July 1, 1965; Laws 1965, p. 1340, § 1, eff. July 8, 1965; Laws 1965, p. 2731, § 1, eff. Aug. 6, 1965; Laws 1965, p. 2939, § 1, eff. Aug. 10, 1965. Resectioned § 8b.1 and amended by Laws 1967, p. 51, § 1, eff. July 1, 1967. Amended by Laws 1967, p. 2008, § 1, eff. July 24, 1967; Laws 1967, p. 3254, § 1, eff. Aug. 18, 1967; P.A. 76-1832, § 1, eff. Oct. 10, 1969; P.A. 77-1519, § 1, eff. Sept. 10, 1971; P.A. 82-789, Art. I, § 37, eff. July 13, 1982; P.A. 83-1067, § 25, eff. July 1, 1984.

Formerly Ill.Rev.Stat.1991, ch. 127, ¶ 63b108b.1.

¹ 720 ILCS 5/11-6, 5/11-7, 5/11-9, 5/11-14, 5/11-15, 5/11-17 to 5/11-19, 5/12-2, 5/12-6, 5/12-15, 5/14-4, 5/16-1, 5/21.1-3, 5/24-3, 5/25-1, 5/28-3, 5/31-1, 5/31-4, 5/31-6, 5/31-7, 5/32-1 to 5/32-4, 5/32-8 and 5/24-1.

² 20 ILCS 5/7.08.

licensed under this Act in the interest of carrying police power of the State.

P.A. 88-363, § 55, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 4

446/60. Personnel; investigators

§ 60. Personnel; investigators. The Director may employ, in conformity with the Personnel Code,¹ professional, technical, investigative, or clerical help on either a part-time basis, as may be necessary for the enforcement of this Act. Each investigator or inspector shall have a minimum of 2 years investigative experience out of the previous 5 years.

No investigator may hold an active license issued under this Act nor may any investigator have any fiduciary interest in any business licensed under this Act. This prohibition, however, does not prohibit the investigator from holding an interest in a publicly traded business licensed or regulated under this Act provided the investigator does not hold more than 5% of the stock of the business.

Any person licensed under this Act who is employed by the Department shall surrender his or her license to the Department for the duration of employment with the Department. The license holder is responsible for maintaining his or her license in good standing and shall pay one-quarter of the required renewal fees. However, if not employed by the Department the license holder is required to maintain the insurance coverage specified in section 75 of this Act.

P.A. 88-363, § 60, eff. Jan. 1, 1994.

¹ 20 ILCS 415/1 et seq.

For repeal of Act, see note preceding 225 ILCS 4

446/65. Rules and regulations

§ 65. Rules and regulations. The Department may make reasonable rules relating to this Act.

P.A. 88-363, § 65, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 4

446/70. Licensure classifications

§ 70. Licensure classifications. The classes of individual licenses are:

- (a) Private detective.
- (b) Private security contractor.
- (c) Private alarm contractor.

The classes of business certification are:

- (d) Private detective agency.
- (e) Private security contractor agency.
- (f) Private alarm contractor agency.
- (g) Agency branch office license.

P.A. 88-363, § 70, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 4

446/75. Qualifications for licensure and agency certification

§ 75. Qualifications for licensure and agency certification. (a) Private Detective. A person is qualified to receive a license as a private detective if he or she meets the following requirements:

- (1) Is at least 21 years of age.

225 ILCS 446/50. Powers and duties of Department

§ 50. Powers and duties of Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois¹ for the administration of licensing acts and shall exercise all other powers and duties vested by this Act.

(b) The Director shall promulgate rules for the administration and enforcement of this Act. The Director may prescribe forms to be issued in connection with the administration and enforcement of this Act. The rules shall include standards and criteria for registration, certification, professional conduct, and discipline. The Department shall consult with the Board in promulgating rules. Notice of proposed rulemaking shall be transmitted to the Board, and the Department shall review the Board's response and any recommendations. The Department shall notify the Board with proper explanation of any deviations from the Board's recommendations and responses.

(c) The Board shall propose additions or modifications to administrative rules to the Director whenever a majority of the members of the Board believe the rules are deficient for the proper administration of this Act.

(d) The Board shall have any other powers as may be required to carry out the provisions of this Act.

P.A. 88-363, § 50, eff. Jan. 1, 1994.

¹ 20 ILCS 2105/60 et seq.

For repeal of Act, see note preceding 225 ILCS 446/1.

446/55. Regulation of licensed persons

§ 55. Regulation of licensed persons. It is the intent of the General Assembly that the regulation of all those licensed under this Act is the responsibility of the Department. The expertise of those on the Board is considered essential to decisions that affect the regulation of those

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manager or administrator for an agency licensed as a private alarm contractor agency, or for an entity that designs, sells, installs, services, or monitors alarm systems which in the judgment of the Board satisfies standards of alarm industry competence.

(9) Has successfully passed an examination authorized by the Department. The examination shall include subjects reasonably related to the activities licensed so as to provide for the protection of the health and safety of the public.

(10) Has not violated Section 15, 20, or 25 of this Act, but this requirement does not operate as an absolute bar to licensure.

(11) It is the responsibility of the applicant to obtain liability insurance in an amount and coverage type appropriate as determined by rule for the applicant's individual business circumstances. The applicant shall provide evidence of insurance to the Department before being issued a license. This insurance requirement is a continuing requirement for licensure. Failure to maintain insurance shall result in cancellation of the license by the Department.

(d) Private detective agency. Upon payment of the required fee and proof that the applicant has a full-time Illinois licensed private detective in charge, which is a continuing requirement for agency certification, the Department shall issue, without examination, a certificate as a private detective agency to any of the following:

(1) An individual who submits an application in writing and who is a licensed private detective under this Act.

(2) A firm or association that submits an application in writing and all of the members of the firm or association are licensed private detectives under this Act.

(3) A duly incorporated or registered corporation allowed to do business in Illinois that is authorized by its articles of incorporation to engage in the business of conducting a detective agency, provided at least one officer or executive employee is licensed as a private detective under this Act and all unlicensed officers and directors of the corporation are determined by the Department to be persons of good moral character.

No private detective may be the private detective in charge for more than one agency except for an individual who, on the effective date of this Act, is currently and actively a licensee for more than one agency. Upon written request by a representative of an agency within 10 days after the loss of a licensee in charge of an agency because of the death of that individual or because of an unanticipated termination of the employment of that individual, the Department shall issue a temporary permit allowing the continuing operation of a previously licensed agency. No temporary permit shall be valid for more than 90 days. An extension of an additional 90 days may be granted by the Department for good cause shown upon written request by the representative of the agency. No more than 2 extensions may be granted to any agency. No temporary permit shall be issued for the loss of the detective in charge because of disciplinary action by the Department.

(e) Private alarm contractor agency. Upon receipt of the required fee and proof that the applicant has a full-time Illinois licensed private alarm contractor in charge, which is a continuing requirement for agency certification, the Department shall issue, without examination, a certificate as a private alarm contractor agency to any of the following:

(1) An individual who submits an application in writing and who is a licensed private alarm contractor under this Act.

(2) A firm or association that submits an application in writing that all of the members of the firm or association are licensed private alarm contractors under this Act.

(3) A duly incorporated or registered corporation allowed to do business in Illinois that is authorized by articles of incorporation to engage in the business of conducting a private alarm contractor agency, provided at least one officer or executive employee is licensed as a private alarm contractor under this Act and all unlicensed officers and directors of the corporation are determined by the Department to be persons of good moral character.

No private alarm contractor may be the private alarm contractor in charge for more than one agency except for an individual who, on the effective date of this Act, is currently and actively a licensee for more than one agency. Upon written request by a representative of an agency within 10 days after the loss of a licensed private alarm contractor in charge of an agency because of the death of that individual or because of the unanticipated termination of the employment of that individual, the Department shall issue a temporary permit allowing the continuing operation of a previously licensed agency. No temporary permit shall be valid for more than 90 days. An extension of an additional 90 days may be granted by the Department for good cause shown and upon written request by the representative of the agency. No more than 2 extensions may be granted to any agency. No temporary permit shall be issued for the loss of the licensee in charge because of disciplinary action by the Department.

(f) Private security contractor agency. Upon receipt of the required fee and proof that the applicant has a full-time Illinois licensed private security contractor in charge, which is a continuing requirement for agency certification, the Department shall issue, without examination, a certificate as a private security contractor agency to any of the following:

(1) An individual who submits an application in writing and who is a licensed private security contractor under this Act.

(2) A firm or association that submits an application in writing that all of the members are licensed private security contractors under this Act.

(3) A duly incorporated or registered corporation allowed to do business in Illinois that is authorized by articles of incorporation to engage in the business of conducting a private security contractor agency, provided at least one officer or executive employee is licensed as a private security contractor under this Act and all unlicensed officers and directors of the corporation are determined by the Department to be persons of good moral character.

No private security contractor may be the private security contractor in charge for more than one agency except for an individual who, on the effective date of this Act, is currently and actively a licensee for more than one agency. Upon written request by a representative of the agency within 10 days after the loss of a licensee in charge of an agency because of the death of that individual or because of an unanticipated termination of the employment of that individual, the Department shall issue a temporary permit allowing the continuing operation of a previously licensed agency. No temporary permit shall be valid for more than 90 days. An extension of an additional 90 days may be granted upon written request by the representative of the agency.

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- (2) Is a citizen or legal resident alien of the United States.
- (3) Has not been convicted in any jurisdiction of any felony or at least 10 years have expired from the time of discharge from any sentence imposed for a felony.
- (4) Is of good moral character. Good character is a continuing requirement of licensure. Conviction of crimes not listed in paragraph (3) of subsection (a) of this Section may be used in determining moral character, but do not operate as an absolute bar to licensure.
- (5) Has not been declared by any court of competent jurisdiction to be incompetent by reason of mental or physical defect or disease unless a court has since declared him or her to be competent.
- (6) Is not suffering from habitual drunkenness or from narcotic addiction or dependence.
- (7) Has a minimum of 3 years experience out of the 5 years immediately preceding his or her application working full-time for a licensed private detective agency as a registered private detective employee or with 3 years experience out of the 5 years immediately preceding his or her application employed as a full-time investigator in a law enforcement agency of a federal or State political subdivision, approved by the Board and the Department; or an applicant who has obtained a baccalaureate degree in police science or a related field or a business degree from an accredited college or university shall be given credit for 2 of the 3 years experience required under this Section. An applicant who has obtained an associate degree in police science or a related field or in business from an accredited college or university shall be given credit for one of the 3 years experience required under this Section.
- (8) Has not been dishonorably discharged from the armed services of the United States.
- (9) Has successfully passed an examination authorized by the Department. The examination shall include subjects reasonably related to the activities licensed so as to provide for the protection of the health and safety of the public.
- (10) Has not violated Section 15, 20, or 25 of this Act, but this requirement does not operate as an absolute bar to licensure.

It is the responsibility of the applicant to obtain liability insurance in an amount and coverage type appropriate as determined by rule for the applicant's individual business circumstances. The applicant shall provide evidence of insurance to the Department before being issued a license. This insurance requirement is a continuing requirement for licensure. Failure to maintain insurance shall result in cancellation of the license by the Department.

(b) Private security contractor. A person is qualified to receive a license as a private security contractor if he or she meets the following requirements:

- (1) Is at least 21 years of age.
- (2) Is a citizen or legal resident alien of the United States.
- (3) Has not been convicted in any jurisdiction of any felony or at least 10 years have expired from the time of discharge from any sentence imposed for a felony.
- (4) Is of good moral character. Good moral character is a continuing requirement of licensure. Convictions of crimes not listed in paragraph (3) of subsection (b) of this Section may be used in determining moral character, but do not operate as an absolute bar to licensure.
- (5) Has not been declared by any court of competent jurisdiction to be incompetent by reason of mental or

physical defect or disease unless a court has since declared him or her to be competent.

(6) Is not suffering from habitual drunkenness or from narcotic addiction or dependence.

(7) Has a minimum of 3 years experience out of the 5 years immediately preceding his or her application as a full-time manager or administrator for a licensed private security contractor agency or a manager or administrator of a proprietary security force of 30 or more persons registered with the Department, or with 3 years experience out of the 5 years immediately preceding his or her application as a full-time supervisor in a law enforcement agency of a federal or State political subdivision, approved by the Board and the Department; or an applicant who has obtained a baccalaureate degree in police science or a related field or a business degree from an accredited college or university shall be given credit for 2 of the 3 years experience required under this Section. An applicant who has obtained an associate degree in police science or a related field or in business from an accredited college or university shall be given credit for one of the 3 years experience required under this Section.

(8) Has not been dishonorably discharged from the armed services of the United States.

(9) Has successfully passed an examination authorized by the Department. The examination shall include subjects reasonably related to the activities licensed so as to provide for the protection of the health and safety of the public.

(10) Has not violated Section 15, 20, or 25 of this Act, but this requirement does not operate as an absolute bar to licensure.

(11) It is the responsibility of the applicant to obtain liability insurance in amount and coverage type appropriate as determined by rule for the applicant's individual business circumstances. The applicant shall provide evidence of insurance to the Department before being issued a license. This insurance requirement is a continuing requirement for licensure. Failure to maintain insurance shall result in cancellation of the license by the Department.

(c) Private alarm contractor. A person is qualified to receive a license as a private alarm contractor if he or she meets the following requirements:

- (1) Is at least 21 years of age.
- (2) Is a citizen or legal resident alien of the United States.
- (3) Has not been convicted in any jurisdiction of any felony or at least 10 years have expired from the time of discharge from any sentence imposed for a felony.
- (4) Is of good moral character. Good moral character is a continuing requirement of licensure. Convictions of crimes not listed in paragraph (3) of subsection (c) of this Section may be used in determining moral character, but do not operate as an absolute bar to licensure.
- (5) Has not been declared by any court of competent jurisdiction to be incompetent by reason of mental or physical defect or disease unless a court has since declared him or her to be competent.
- (6) Is not suffering from habitual drunkenness or from narcotic addiction or dependence.
- (7) Has not been dishonorably discharged from the armed services of the United States.
- (8) Has a minimum of 3 years experience out of the 5 years immediately preceding application as a full time

more than 2 extensions may be granted to any agency. No temporary permit shall be issued for the loss of the licensee in charge because of disciplinary action by the Department.

(g) Any licensed agency that operates a branch office as defined in this Act shall apply for a branch office license. P.A. 88-363, § 75, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 446/1.

446/80. Employee requirements

§ 80. Employee requirements. All employees of a licensed agency, other than those exempted, shall apply for a Permanent Employee Registration Card. The holder of an agency certificate issued under this Act, known in this Act as "employer", may employ in the conduct of his or her business employees under the following provisions:

(a) No person shall be issued a permanent employee registration card who:

- (1) Is under 18 years of age.
- (2) Is under 21 years of age if the services will include being armed.
- (3) Is not a citizen or legal resident alien.
- (4) Has been determined by the Department to be unfit by reason of conviction of an offense in this or another state, other than a minor traffic offense. The Department shall promulgate rules for procedures by which those circumstances shall be determined and that afford the applicant due process of law.
- (5) Has had a license or permanent employee registration card refused, denied, suspended, or revoked under this Act.

(6) Has been declared incompetent by any court of competent jurisdiction by reason of mental disease or defect and has not been restored.

(7) Has been dishonorably discharged from the armed services of the United States.

(b) No person may be employed by a private detective agency, private security contractor agency, or private alarm contractor agency under this Section until he or she has executed and furnished to the employer, on forms furnished by the Department, a verified statement to be known as "Employee's Statement" setting forth:

- (1) The person's full name, age, and residence address.
 - (2) The name of the country of which the person is a citizen; and if the person is not a citizen of the United States, proof that the person is a legal resident alien.
 - (3) The business or occupation engaged in for the 5 years immediately before the date of the execution of the statement, the place where the business or occupation was engaged in, and the names of employers, if any.
 - (4) That the person has not had a license or employee registration refused, revoked, or suspended under this Act.
 - (5) Any conviction of a felony or misdemeanor.
 - (6) Any declaration of incompetency by a court of competent jurisdiction that has not been restored.
 - (7) Any dishonorable discharge from the armed services of the United States.
 - (8) Any other information as may be required by any rule of the Department to show the good character, competency, and integrity of the person executing the statement.
- (c) Each applicant for a permanent employee registration card shall submit to the Department with the applicable fees, on fingerprint cards furnished by the Department, 2 com-

plete sets of fingerprints that are verified to be those of the applicant. If an applicant's fingerprint cards are returned to the Department as unclassifiable by the screening agency, the applicant has 90 days after notification is sent by the Department to submit additional fingerprint cards taken by a different technician to replace the unclassifiable fingerprint cards.

The Department shall notify the submitting licensed agency within 10 days if the applicant's fingerprint cards are returned to the Department as unclassifiable. However, instead of submitting fingerprint cards, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. Also, a full-time peace officer or an individual who has retired as a peace officer within 12 months of application may submit verification, on forms provided by the Department and signed by one's employer, of his or her full-time employment as a peace officer. "Peace officer" means any person who by virtue of his or her office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; officers, agents, or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws are considered peace officers.

(d) Upon receipt of the verified fingerprint cards, the Department shall cause the fingerprints to be compared with fingerprints of criminals now or hereafter filed with the Illinois Department of State Police. The Department may also cause the fingerprints to be checked against the fingerprints of criminals now or hereafter filed in the records of other official fingerprint files within or without this State. The Department shall issue a permanent employee registration card, in a form the Department prescribes, to all qualified applicants. The Department shall notify the submitting licensed agency within 10 days upon the issuance of or intent to deny the permanent employee registration card. The holder of a permanent employee registration card shall carry the card at all times while actually engaged in the performance of the duties of his or her employment. Expiration and requirements for renewal of permanent employee registration cards shall be established by rule of the Department. Possession of a permanent employee registration card does not in any way imply that the holder of the card is employed by an agency unless the permanent employee registration card is accompanied by the employee identification card required by subsection (g) of this Section.

(e) Within 5 days of the receipt of the application materials, the Department shall institute an investigation for a criminal record by checking the applicant's name with immediately available criminal history information systems.

(f) Each employer shall maintain a record of each employee that is accessible to the duly authorized representatives of the Department. The record shall contain the following information:

- (1) A photograph taken within 10 days of the date that the employee begins employment with the employer. The photograph shall be replaced with a current photograph every 3 calendar years.
- (2) The employee's statement specified in subsection (b) of this Section.
- (3) All correspondence or documents relating to the character and integrity of the employee received by the employer from any official source or law enforcement agency.

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(4) In the case of former employees, the employee identification card of that person issued under subparagraph (g) of this Section.

(5) Each employee record shall duly note if the employee is employed in an armed capacity. Armed employee files shall contain a copy of an active Firearm Owners Identification Card and a copy of an active Firearm Authorization Card.

(6) Each employer shall maintain a record for each armed employee of each instance in which the employee's weapon was discharged during the course of his or her professional duties or activities. The record shall be maintained on forms provided by the Department, a copy of which must be filed with the Department within 15 days of an instance. The record shall include the date and time of the occurrence, the circumstances involved in the occurrence, and any other information as the Department may require. Failure to provide this information to the Department or failure to maintain the record as a part of each armed employee's permanent file is grounds for disciplinary action. The Department, upon receipt of a report, shall have the authority to make any investigation it considers appropriate into any occurrence in which an employee's weapon was discharged and to take disciplinary action as may be appropriate.

(7) The Department may, by rule, prescribe further record requirements.

(g) Every employer shall furnish an employee identification card to each of his or her employees. This employee identification card shall contain a recent photograph of the employee, the employee's name, the name and agency certification number of the employer, the employee's personal description, the signature of the employer, the signature of that employee, the date of issuance, and an employee identification card number.

(h) No employer may issue an employee identification card to any person who is not employed by the employer in accordance with this Section or falsely state or represent that a person is or has been in his or her employ. It is unlawful for an applicant for registered employment to file with the Department the fingerprints of a person other than himself or herself, or to fail to exercise due diligence in resubmitting replacement fingerprints for those employees who have had original fingerprint submissions returned as unclassifiable.

(i) Every employer shall obtain the identification card of every employee who terminates employment with him or her.

(j) Every employer shall maintain a separate roster of the names of all employees currently working in an armed capacity and submit the roster to the Department on request.

(k) No agency may employ any person under this Act unless:

(1) The person possesses a valid permanent employee registration card; or

(2) The agency:

(i) on behalf of each person completes in its entirety and submits to the Department an application for a permanent employee registration card, including the required fingerprint card and fees;

(ii) exercises due diligence to ensure that the person is qualified under the requirements of the Act to be issued a permanent employee registration card; and

(iii) maintains a separate roster of the names of all employees whose applications are currently pending

with the Department and submits the roster to the Department on a monthly basis. Rosters are to be maintained by the agency for a period of at least 12 months.

(l) Failure by an agency to submit the application, fee, and fingerprints specified in this Section before scheduling the person for work shall result in a fine, in an amount up to \$1,000, or other disciplinary action being imposed against the agency. Failure to maintain and submit the specified roster is grounds for discipline under this Act.

(m) No person may be employed under this Section in a capacity if:

(i) the person while so employed is being paid by the United States or any political subdivision for the time he or she is employed in addition to any payments he or she receives from the employer.

(ii) The person wears any portion of his or her official uniform, emblem of authority, or equipment while so employed except as provided in Section 30.

(n) If information is discovered affecting the registration of a person whose fingerprints were submitted under this Section, the Department shall so notify the agency that submitted the fingerprints on behalf of that person.

P.A. 88-363, § 80, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 240/10.

446/85. Unlawful acts

§ 85. Unlawful acts. It is unlawful for a licensee under this Act or any employee of a certified agency:

(1) Upon termination of employment by an agency for whatever reason, to fail to return immediately upon demand or within 72 hours of termination of employment any firearm issued by the employer and the Firearm Authorization Card issued to the employee by the agency.

(2) Upon termination of employment by an agency for whatever reason, to fail to return immediately upon demand or within 72 hours of termination of employment any uniform, badge, identification card, or equipment issued to the employee by the agency.

(3) To falsify his or her employee statement as defined in this Act.

(4) To have a badge, shoulder patch, or any other identification that contains the words "law enforcement" or which, either, no license holder or employee of a licensed agency shall in any manner imply that the person is an employee or agent of a governmental agency, display a badge, identification card, emblem, or uniform citing the words "police, sheriff, highway patrol, trooper, or law enforcement".
P.A. 88-363, § 85, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 240/10.

446/90. Application for license; forms

§ 90. Application for license; forms.

(a) Each application for a license to practice under this Act shall be in writing and signed by the applicant on forms provided by the Department.

(b) Application for a license without examination shall be made in accordance with provisions of Section 100.

P.A. 88-363, § 90, eff. Jan. 1, 1994.

For repeal of Act, see note preceding 225 ILCS 240/10.