

AFTER PRISON: ROADBLOCKS TO REENTRY

A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

What's the Law

STATE PROFILES > ILLINOIS

ADOPTIVE AND FOSTER PARENTING

1. Does the state consider other criminal history records beyond the federal list of convictions barring people from becoming foster and/or adoptive parents?

Yes. The state requires licensure for both foster and adoptive parents. Applicants for foster and adoptive parent licensure must be barred by convictions for committing or attempting to commit other violent or sexual offenses and must also be excluded based upon convictions for committing or attempting to commit additional drug-related offenses, offenses directed against persons or property, or offenses affecting the public health, safety, and decency, unless the conviction(s) are more than 10 years old and were disclosed during the application process, the child was placed in the home, and the applicant appears able to continue providing a safe, stable home. The bar for drug-related offenses goes further than the discretionary federal law because the state law is mandatory. 225 Ill. Comp. Stat. §§ 10/2.17, 10/3(a), 10/4.2, and 10/17.

2. Does the state restrict people from becoming foster and/or adoptive parents for longer than required by federal law?

Yes. If the conviction(s) are more than 10 years old and were disclosed during the application process, the child was placed in the home, and the applicant appears able to continue providing a safe, stable home then the person may become a foster/adoptive parent. Otherwise, the statute is silent on the length of the bars for both prospective foster and adoptive parents so they operate as lifetime bars. 225 Ill. Comp. Stat. § 10/4.2.

3. May applicants be barred by the convictions of other household members?

Yes, applicants for foster and adoptive parent licensure must be barred if other household members have many of the same convictions that would disqualify the applicant if s/he were the one convicted. 225 Ill. Comp. Stat. § 10/4.2(c).

4. Does the state make individual determinations about an applicant's eligibility based on the criminal record?

No.

ACCESS TO CRIMINAL RECORDS

1. Is there a time limit after which criminal history information is not reported to non-law enforcement entities for employment purposes?

No. 20 Ill. Comp. Stat. § 2635/3.

2. Other than the subject and criminal justice agencies, who can obtain records?

The public. 20 Ill. Comp. Stat. § 2635/5.

3. What types of records can be disclosed to non-criminal justice agencies?

Conviction information only. 20 Ill. Comp. Stat. §§ 2635/5 and 2630/7.

4. Are there penalties for violating limitations on dissemination?

Civil, administrative, and criminal penalties. 20 Ill. Comp. Stat. §§ 2635/14, 17, and 18.

5. Are state criminal records available on the internet?

Yes, information about individuals presently incarcerated or on parole is available at <http://www.idoc.state.il.us/inmates/search.htm>.

6. Can state criminal records of arrests not leading to conviction be sealed (including expunged, erased, or purged)?

An individual with no prior conviction record who is acquitted or released without being convicted for a violation, felony or misdemeanor may petition for immediate expungement of the arrest record. Arrests that resulted in supervision are eligible for expungement two years after discharge and dismissal of supervision. Arrests that resulted in supervision for specific motor vehicle and other listed violations are eligible for expungement five years after termination of supervision or probation. 20 Ill. Comp. Stat. § 2630/5.

7. If so, what is the effect of having an arrest sealed?

Public and private employers are prohibited from inquiring about or using expunged arrests. 775 Ill. Comp. Stat. § 5/2-103(A).

8. Can criminal conviction records be sealed (including expunged, erased, or purged)?

Yes, an individual convicted of certain misdemeanor offenses can apply to have the record sealed four years after the completion of the sentence provided the person has not been convicted of a crime during that four-year period. An individual with a conviction who has been granted a pardon that specifically authorizes expungement may petition for an expungement order. 20 Ill. Comp. Stat. § 2630/5.

Law enforcement and juvenile court records relating to incidents occurring before a person's seventeenth birthday may be expunged when the individual reaches age seventeen or the proceedings have been terminated, if later, under certain circumstances. 705 Ill. Comp. Stat. § 405/5-915.

9. If so, what is the effect of having a conviction sealed?

Public and private employers are prohibited from inquiring about or using expunged criminal history record information. Expunged juvenile records are treated as if they never occurred; government agencies can say no record exists if they receive an inquiry. 775 Ill. Comp. Stat. §§ 405/5-915(4) and 5/2-103(A).

DRIVERS' LICENSE PRIVILEGES

1. Does the state revoke or suspend the drivers' licenses of people convicted of drug-related offenses?

Illinois passed a resolution on November 9, 2000 in opposition to enacting a law called for by the federal statute in order to receive certain federal highway funds. However, the state does revoke drivers' licenses for drug-related offenses. 625 Ill. Comp. Stat. §§ 5/6-201(a)(7) and 5/6-205(a)(2).

2. If so, what crime(s) result in suspension or revocation?

Driving under the influence of alcohol and/or drugs and drug-related convictions while in physical control of a motor vehicle. 625 Ill. Comp. Stat. §§ 5/6-201(a)(7) and 5/6-205(a)(2).

3. If so, what is the length of the suspension or revocation?

Individuals may apply for restoration after one year. 625 Ill. Comp. Stat. §§ 5/6-208 and 5/6-206.1.

4. Does the state offer restricted drivers' licenses for purposes of employment, education, and/or medical care?

First offenders may apply for judicial driving permits (restricted licenses) for employment, education, medical care, and alcohol rehabilitation purposes. 625 Ill. Comp. Stat. § 5/6-206.1(a)(7).

EMPLOYMENT

1. Can employers ask job applicants about arrests not leading to conviction?

No, it is illegal for an employer, employment agency, or labor organization to ask about an arrest or criminal record information that has been expunged or sealed. 775 Ill. Comp. Stat. 5/2-103.

2. Can employers consider arrests not leading to conviction?

No, it is illegal for an employer, employment agency, or labor organization to use an arrest or criminal record information that has been expunged or sealed as the basis to refuse to hire, recruit, promote, select for training, discharge, or discipline in an employment decision. 775 Ill. Comp. Stat. 5/2-103.

3. Does the state have standards prohibiting employment discrimination by public employers and occupational licensing agencies based on a conviction record?

No.

4. Does the state have standards prohibiting employment discrimination by private employers based on a conviction record?

No.

5. Does the state restrict people with criminal records from employment in the field of home health care?

Individuals are barred from home health care employment if convicted of committing or attempting to commit certain violent, sexual, theft, and drug-related offenses. The licensing authority may grant a waiver based upon mitigating circumstances. 225 Ill. Comp. Stat. §§ 46/25 and 40.

6. After an individual has been convicted, does the state offer any mechanism to demonstrate that an individual has been rehabilitated?

Restoration of civil rights and pardons. Most civil rights except voting and holding office are unaffected by a conviction. Courts may issue a certificate stating the sentence has been satisfactorily completed when it believes that would assist rehabilitation. A certificate does not lift occupational bars. Ill. Const. art. 5, § 12 and 730 Ill. Comp. Stat. § 5/5-5-5.

PUBLIC ASSISTANCE AND FOOD STAMPS

1. Are people with drug-felony convictions dated after 1996 eligible to receive TANF benefits and food stamps?

Individuals convicted of a Class X or Class 1 felony under the Illinois Controlled Substance Act or Cannabis Control Act (including trafficking and certain possession offenses) are not eligible for cash assistance, but are eligible for food stamps. Persons convicted of all other felonies are eligible for food stamps, but are not eligible for cash assistance for two years from the date of conviction, unless the person is in a drug treatment program, aftercare program or similar program. 305 Ill. Comp. Stat. § 5/1-10.

PUBLIC HOUSING

1. Does the Housing Authority consider arrests that did not lead to conviction in its admission criteria?

No, the Chicago Public Housing Authority (PHA) will not consider arrests not leading to conviction.

2. Does the Housing Authority make individual determinations about an applicant's eligibility based upon the relevance of the criminal record?

No, the Chicago PHA will not consider rehabilitation.

3. How long is the conviction bar(s)?

Five years for all felony convictions.

VOTING

1. Does the state grant people with criminal records the right to vote?

Individuals convicted of felony offenses may vote upon completion of the sentence and while on probation and parole. Incarcerated individuals may not vote. 730 Ill. Comp. Stat. § 5/5-5-5 and Ill. Const. Art. 3, § 2.

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