



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB0184**

Introduced 2/2/2005, by Sen. Ira I. Silverstein

**SYNOPSIS AS INTRODUCED:**

225 ILCS 447/10-25  
225 ILCS 447/35-30  
225 ILCS 447/40-10

Amends the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004. Authorizes the Department of Financial and Professional Regulation to resubmit the fingerprints of an applicant for renewal or restoration of a license, permanent employee registration card, or firearm authorization card to the Department of State Police for the purpose of an updated criminal history check at the time of renewal or restoration. Prohibits a person who has a mental disability demonstrated by the entry of an order or judgment by a court that the person is in need of mental treatment or is incompetent from being issued a permanent employee registration card (now, prohibits a person who has been declared incompetent by any court of competent jurisdiction by reason of mental disease or defect and has not been restored from being issued a card). Prohibits a person who is not (i) a U.S. citizen, (ii) a permanent resident, or (iii) in legal possession of an authorization to work supplied by the Department of Homeland Security from being issued a permanent employee registration card. Adds the conviction in Illinois or another state of any 2 or more violent offenses towards persons or property to the list of occurrences that merit disciplinary sanctions.

LRB094 05342 RAS 35386 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Private Detective, Private Alarm, Private  
5 Security, and Locksmith Act of 2004 is amended by changing  
6 Sections 10-25, 35-30, and 40-10 as follows:

7 (225 ILCS 447/10-25)

8 (Section scheduled to be repealed on January 1, 2014)

9 Sec. 10-25. Issuance of license; renewal; fees.

10 (a) The Department shall, upon the applicant's  
11 satisfactory completion of the requirements set forth in this  
12 Act and upon receipt of the fee, issue the license indicating  
13 the name and business location of the licensee and the date of  
14 expiration.

15 (b) An applicant may, upon satisfactory completion of the  
16 requirements set forth in this Act and upon receipt of fees  
17 related to the application and testing for licensure, elect to  
18 defer the issuance of the applicant's initial license for a  
19 period not longer than 6 years. An applicant who fails to  
20 request issuance of his or her initial license or agency  
21 license and to remit the fees required for that license within  
22 6 years shall be required to resubmit an application together  
23 with all required fees.

24 (c) The expiration date, renewal period, and conditions for  
25 renewal and restoration of each license, permanent employee  
26 registration card, and firearm authorization card shall be set  
27 by rule. The holder may renew the license, permanent employee  
28 registration card, or firearm authorization card during the 30  
29 days preceding its expiration by paying the required fee and by  
30 meeting conditions that the Department may specify. The  
31 Department may resubmit the fingerprints of an applicant for  
32 renewal or restoration to the Department of State Police for

1 the purpose of an updated criminal history check at the time of  
2 renewal or restoration. Any license holder who notifies the  
3 Department on forms prescribed by the Department may place his  
4 or her license on inactive status for a period of not longer  
5 than 6 years and shall, subject to the rules of the Department,  
6 be excused from payment of renewal fees until the license  
7 holder notifies the Department, in writing, of an intention to  
8 resume active status. Practice while on inactive status  
9 constitutes unlicensed practice. A non-renewed license that  
10 has lapsed for less than 6 years may be restored upon payment  
11 of the restoration fee and all lapsed renewal fees. A license  
12 that has lapsed for more than 6 years may be restored by paying  
13 the required restoration fee and all lapsed renewal fees and by  
14 providing evidence of competence to resume practice  
15 satisfactory to the Department and the Board, which may include  
16 passing a written examination. All restoration fees and lapsed  
17 renewal fees shall be waived for an applicant whose license  
18 lapsed while on active duty in the armed forces of the United  
19 States if application for restoration is made within 12 months  
20 after discharge from the service.

21 (d) Any permanent employee registration card expired for  
22 less than one year may be restored upon payment of lapsed  
23 renewal fees. Any permanent employee registration card expired  
24 for one year or more may be restored by making application to  
25 the Department and filing proof acceptable to the Department of  
26 the licensee's fitness to have the permanent employee  
27 registration card restored, including verification of  
28 fingerprint processing through the Department of State Police  
29 and Federal Bureau of Investigation and paying the restoration  
30 fee.

31 (Source: P.A. 93-438, eff. 8-5-03.)

32 (225 ILCS 447/35-30)

33 (Section scheduled to be repealed on January 1, 2014)

34 Sec. 35-30. Employee requirements. All employees of a  
35 licensed agency, other than those exempted, shall apply for a

1 permanent employee registration card. The holder of an agency  
2 license issued under this Act, known in this Section as  
3 "employer", may employ in the conduct of his or her business  
4 employees under the following provisions:

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

7 (A) Is younger than 18 years of age.

8 (B) Is younger than 21 years of age if the services  
9 will include being armed.

10 (C) Has been determined by the Department to be  
11 unfit by reason of conviction of an offense in this or  
12 another state, other than a traffic offense. The  
13 Department shall adopt rules for making those  
14 determinations that shall afford the applicant due  
15 process of law.

16 (D) Has had a license or permanent employee  
17 registration card denied, suspended, or revoked under  
18 this Act (i) within one year before the date the  
19 person's application for permanent employee  
20 registration card is received by the Department; and  
21 (ii) that refusal, denial, suspension, or revocation  
22 was based on any provision of this Act other than  
23 Section 40-50, item (6) or (8) of subsection (a) of  
24 Section 15-10, subsection (b) of Section 15-10, item  
25 (6) or (8) of subsection (a) of Section 20-10,  
26 subsection (b) of Section 20-10, item (6) or (8) of  
27 subsection (a) of Section 25-10, subsection (b) of  
28 Section 25-10, item (7) of subsection (a) of Section  
29 30-10, subsection (b) of Section 30-10, or Section  
30 10-40.

31 (E) Has a mental disability demonstrated by the  
32 entry of an order or judgment by a court that a person  
33 is in need of mental treatment or is incompetent ~~Has~~  
34 ~~been declared incompetent by any court of competent~~  
35 ~~jurisdiction by reason of mental disease or defect~~ and  
36 has not been restored by the court.

1 (F) Has been dishonorably discharged from the  
2 armed services of the United States.

3 (G) Is not (i) a U.S. citizen, (ii) a permanent  
4 resident, or (iii) in legal possession of an  
5 authorization to work supplied by the Department of  
6 Homeland Security.

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

13 (A) The person's full name, age, and residence  
14 address.

15 (B) The business or occupation engaged in for the 5  
16 years immediately before the date of the execution of  
17 the statement, the place where the business or  
18 occupation was engaged in, and the names of employers,  
19 if any.

20 (C) That the person has not had a license or  
21 employee registration denied, revoked, or suspended  
22 under this Act (i) within one year before the date the  
23 person's application for permanent employee  
24 registration card is received by the Department; and  
25 (ii) that refusal, denial, suspension, or revocation  
26 was based on any provision of this Act other than  
27 Section 40-50, item (6) or (8) of subsection (a) of  
28 Section 15-10, subsection (b) of Section 15-10, item  
29 (6) or (8) of subsection (a) of Section 20-10,  
30 subsection (b) of Section 20-10, item (6) or (8) of  
31 subsection (a) of Section 25-10, subsection (b) of  
32 Section 25-10, item (7) of subsection (a) of Section  
33 30-10, subsection (b) of Section 30-10, or Section  
34 10-40.

35 (D) Any conviction of a felony or misdemeanor.

36 (E) Any declaration of incompetence by a court of

1 competent jurisdiction that has not been restored.

2 (F) Any dishonorable discharge from the armed  
3 services of the United States.

4 (G) Any other information as may be required by any  
5 rule of the Department to show the good character,  
6 competency, and integrity of the person executing the  
7 statement.

8 (c) Each applicant for a permanent employee registration  
9 card shall have his or her fingerprints submitted to the  
10 Department of State Police in an electronic format that  
11 complies with the form and manner for requesting and furnishing  
12 criminal history record information as prescribed by the  
13 Department of State Police. These fingerprints shall be checked  
14 against the Department of State Police and Federal Bureau of  
15 Investigation criminal history record databases now and  
16 hereafter filed. The Department of State Police shall charge  
17 applicants a fee for conducting the criminal history records  
18 check, which shall be deposited in the State Police Services  
19 Fund and shall not exceed the actual cost of the records check.  
20 The Department of State Police shall furnish, pursuant to  
21 positive identification, records of Illinois convictions to  
22 the Department. The Department may require applicants to pay a  
23 separate fingerprinting fee, either to the Department or  
24 directly to the vendor. The Department, in its discretion, may  
25 allow an applicant who does not have reasonable access to a  
26 designated vendor to provide his or her fingerprints in an  
27 alternative manner. The Department, in its discretion, may also  
28 use other procedures in performing or obtaining criminal  
29 background checks of applicants. Instead of submitting his or  
30 her fingerprints, an individual may submit proof that is  
31 satisfactory to the Department that an equivalent security  
32 clearance has been conducted. Also, an individual who has  
33 retired as a peace officer within 12 months of application may  
34 submit verification, on forms provided by the Department and  
35 signed by his or her employer, of his or her previous full-time  
36 employment as a peace officer.

1 (d) The Department shall issue a permanent employee  
2 registration card, in a form the Department prescribes, to all  
3 qualified applicants. The holder of a permanent employee  
4 registration card shall carry the card at all times while  
5 actually engaged in the performance of the duties of his or her  
6 employment. Expiration and requirements for renewal of  
7 permanent employee registration cards shall be established by  
8 rule of the Department. Possession of a permanent employee  
9 registration card does not in any way imply that the holder of  
10 the card is employed by an agency unless the permanent employee  
11 registration card is accompanied by the employee  
12 identification card required by subsection (f) of this Section.

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

17 (1) A photograph taken within 10 days of the date that  
18 the employee begins employment with the employer. The  
19 photograph shall be replaced with a current photograph  
20 every 3 calendar years.

21 (2) The Employee's Statement specified in subsection  
22 (b) of this Section.

23 (3) All correspondence or documents relating to the  
24 character and integrity of the employee received by the  
25 employer from any official source or law enforcement  
26 agency.

27 (4) In the case of former employees, the employee  
28 identification card of that person issued under subsection  
29 (f) of this Section. Each employee record shall duly note  
30 if the employee is employed in an armed capacity. Armed  
31 employee files shall contain a copy of an active firearm  
32 owner's identification card and a copy of an active firearm  
33 authorization card. Each employer shall maintain a record  
34 for each armed employee of each instance in which the  
35 employee's weapon was discharged during the course of his  
36 or her professional duties or activities. The record shall

1 be maintained on forms provided by the Department, a copy  
2 of which must be filed with the Department within 15 days  
3 of an instance. The record shall include the date and time  
4 of the occurrence, the circumstances involved in the  
5 occurrence, and any other information as the Department may  
6 require. Failure to provide this information to the  
7 Department or failure to maintain the record as a part of  
8 each armed employee's permanent file is grounds for  
9 disciplinary action. The Department, upon receipt of a  
10 report, shall have the authority to make any investigation  
11 it considers appropriate into any occurrence in which an  
12 employee's weapon was discharged and to take disciplinary  
13 action as may be appropriate.

14 (5) The Department may, by rule, prescribe further  
15 record requirements.

16 (f) Every employer shall furnish an employee  
17 identification card to each of his or her employees. This  
18 employee identification card shall contain a recent photograph  
19 of the employee, the employee's name, the name and agency  
20 license number of the employer, the employee's personal  
21 description, the signature of the employer, the signature of  
22 that employee, the date of issuance, and an employee  
23 identification card number.

24 (g) No employer may issue an employee identification card  
25 to any person who is not employed by the employer in accordance  
26 with this Section or falsely state or represent that a person  
27 is or has been in his or her employ. It is unlawful for an  
28 applicant for registered employment to file with the Department  
29 the fingerprints of a person other than himself or herself.

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

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

35 (j) No agency may employ any person to perform a licensed  
36 activity under this Act unless the person possesses a valid

1 permanent employee registration card or a valid license under  
2 this Act, or is exempt pursuant to subsection (n).

3 (k) Notwithstanding the provisions of subsection (j), an  
4 agency may employ a person in a temporary capacity if all of  
5 the following conditions are met:

6 (1) The agency completes in its entirety and submits to  
7 the Department an application for a permanent employee  
8 registration card, including the required fingerprint  
9 receipt and fees.

10 (2) The agency has verification from the Department  
11 that the applicant has no record of any criminal conviction  
12 pursuant to the criminal history check conducted by the  
13 Department of State Police. The agency shall maintain the  
14 verification of the results of the Department of State  
15 Police criminal history check as part of the employee  
16 record as required under subsection (e) of this Section.

17 (3) The agency exercises due diligence to ensure that  
18 the person is qualified under the requirements of the Act  
19 to be issued a permanent employee registration card.

20 (4) The agency maintains a separate roster of the names  
21 of all employees whose applications are currently pending  
22 with the Department and submits the roster to the  
23 Department on a monthly basis. Rosters are to be maintained  
24 by the agency for a period of at least 24 months.

25 An agency may employ only a permanent employee applicant  
26 for which it either submitted a permanent employee application  
27 and all required forms and fees or it confirms with the  
28 Department that a permanent employee application and all  
29 required forms and fees have been submitted by another agency,  
30 licensee or the permanent employee and all other requirements  
31 of this Section are met.

32 The Department shall have the authority to revoke, without  
33 a hearing, the temporary authority of an individual to work  
34 upon receipt of Federal Bureau of Investigation fingerprint  
35 data or a report of another official authority indicating a  
36 criminal conviction. If the Department has not received a

1 temporary employee's Federal Bureau of Investigation  
2 fingerprint data within 120 days of the date the Department  
3 received the Department of State Police fingerprint data, the  
4 Department may, at its discretion, revoke the employee's  
5 temporary authority to work with 15 days written notice to the  
6 individual and the employing agency.

7 An agency may not employ a person in a temporary capacity  
8 if it knows or reasonably should have known that the person has  
9 been convicted of a crime under the laws of this State, has  
10 been convicted in another state of any crime that is a crime  
11 under the laws of this State, has been convicted of any crime  
12 in a federal court, or has been posted as an unapproved  
13 applicant by the Department. Notice by the Department to the  
14 agency, via certified mail, personal delivery, electronic  
15 mail, or posting on the Department's Internet site accessible  
16 to the agency that the person has been convicted of a crime  
17 shall be deemed constructive knowledge of the conviction on the  
18 part of the agency. The Department may adopt rules to implement  
19 this subsection (k).

20 (l) No person may be employed under this Section in any  
21 capacity if:

22 (1) the person, while so employed, is being paid by the  
23 United States or any political subdivision for the time so  
24 employed in addition to any payments he or she may receive  
25 from the employer; or

26 (2) the person wears any portion of his or her official  
27 uniform, emblem of authority, or equipment while so  
28 employed.

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

33 (n) Peace officers shall be exempt from the requirements of  
34 this Section relating to permanent employee registration  
35 cards. The agency shall remain responsible for any peace  
36 officer employed under this exemption, regardless of whether

1 the peace officer is compensated as an employee or as an  
2 independent contractor and as further defined by rule.

3 (o) Persons who have no access to confidential or security  
4 information and who otherwise do not provide traditional  
5 security services are exempt from employee registration.  
6 Examples of exempt employees include, but are not limited to,  
7 employees working in the capacity of ushers, directors, ticket  
8 takers, cashiers, drivers, and reception personnel.  
9 Confidential or security information is that which pertains to  
10 employee files, scheduling, client contracts, or technical  
11 security and alarm data.

12 (Source: P.A. 93-438, eff. 8-5-03.)

13 (225 ILCS 447/40-10)

14 (Section scheduled to be repealed on January 1, 2014)

15 Sec. 40-10. Disciplinary sanctions.

16 (a) The Department may deny issuance, refuse to renew, or  
17 restore or may reprimand, place on probation, suspend, or  
18 revoke any license, registration, permanent employee  
19 registration card, or firearm authorization card, and it may  
20 impose a fine not to exceed \$1,500 for a first violation and  
21 not to exceed \$5,000 for a second or subsequent violation for  
22 any of the following:

23 (1) Fraud or deception in obtaining or renewing of a  
24 license or registration.

25 (2) Professional incompetence as manifested by poor  
26 standards of service.

27 (3) Engaging in dishonorable, unethical, or  
28 unprofessional conduct of a character likely to deceive,  
29 defraud, or harm the public.

30 (4) Conviction in Illinois or another state of (i) any  
31 crime that is a felony under the laws of Illinois; a felony  
32 in a federal court; a misdemeanor, an essential element of  
33 which is dishonesty; or ~~directly~~ related to professional  
34 practice; or (ii) any 2 or more violent offenses towards  
35 persons or property.

1 (5) Performing any services in a grossly negligent  
2 manner or permitting any of a licensee's employees to  
3 perform services in a grossly negligent manner, regardless  
4 of whether actual damage to the public is established.

5 (6) Continued practice, although the person has become  
6 unfit to practice due to any of the following:

7 (A) Physical illness, including, but not limited  
8 to, deterioration through the aging process or loss of  
9 motor skills that results in the inability to serve the  
10 public with reasonable judgment, skill, or safety.

11 (B) Mental disability demonstrated by the entry of  
12 an order or judgment by a court that a person is in  
13 need of mental treatment or is incompetent.

14 (C) Addiction to or dependency on alcohol or drugs  
15 that is likely to endanger the public. If the  
16 Department has reasonable cause to believe that a  
17 person is addicted to or dependent on alcohol or drugs  
18 that may endanger the public, the Department may  
19 require the person to undergo an examination to  
20 determine the extent of the addiction or dependency.

21 (7) Receiving, directly or indirectly, compensation  
22 for any services not rendered.

23 (8) Willfully deceiving or defrauding the public on a  
24 material matter.

25 (9) Failing to account for or remit any moneys or  
26 documents coming into the licensee's possession that  
27 belong to another person or entity.

28 (10) Discipline by another United States jurisdiction  
29 or foreign nation, if at least one of the grounds for the  
30 discipline is the same or substantially equivalent to those  
31 set forth in this Act.

32 (11) Giving differential treatment to a person that is  
33 to that person's detriment because of race, color, creed,  
34 sex, religion, or national origin.

35 (12) Engaging in false or misleading advertising.

36 (13) Aiding, assisting, or willingly permitting

1 another person to violate this Act or rules promulgated  
2 under it.

3 (14) Performing and charging for services without  
4 authorization to do so from the person or entity serviced.

5 (15) Directly or indirectly offering or accepting any  
6 benefit to or from any employee, agent, or fiduciary  
7 without the consent of the latter's employer or principal  
8 with intent to or the understanding that this action will  
9 influence his or her conduct in relation to his or her  
10 employer's or principal's affairs.

11 (16) Violation of any disciplinary order imposed on a  
12 licensee by the Department.

13 (17) Failing to comply with any provision of this Act  
14 or rule promulgated under it.

15 (18) Conducting an agency without a valid license.

16 (19) Revealing confidential information, except as  
17 required by law, including but not limited to information  
18 available under Section 2-123 of the Illinois Vehicle Code.

19 (20) Failing to make available to the Department, upon  
20 request, any books, records, or forms required by this Act.

21 (21) Failing, within 30 days, to respond to a written  
22 request for information from the Department.

23 (22) Failing to provide employment information or  
24 experience information required by the Department  
25 regarding an applicant for licensure.

26 (23) Failing to make available to the Department at the  
27 time of the request any indicia of licensure or  
28 registration issued under this Act.

29 (24) Purporting to be a licensee-in-charge of an agency  
30 without active participation in the agency.

31 (b) The Department shall seek to be consistent in the  
32 application of disciplinary sanctions.

33 (Source: P.A. 93-438, eff. 8-5-03.)