

PA 99-0876 Summary: A Law to Advance Employment Opportunities for Occupational License Applicants with Prior Convictions

I. 2017 onwards, a new law will expand licensing opportunities for people with conviction records in the following licensed occupations:

- Barber
- Cosmetologist
- Esthetician
- Hair braider
- Nail technician
- Barber teacher
- Cosmetology teacher
- Esthetic teacher
- Hair braiding teacher
- Nail technology teacher
- Funeral director
- Funeral director and embalmer
- Funeral director and embalmer intern
- Roofing contractors

II. HOW:

Before Public Act 99-0876	With Public Act 99-0876
If you had a conviction for any felony or certain misdemeanors you could be denied a license.	Now you may be denied a license only for convictions for "directly related" offenses and misdemeanor violations of the rules and laws governing practices listed above.
No factors were codified to guide consideration of an applicant's prior convictions.	Now IDFPR must consider a number of rehabilitative factors before denying a license for a directly related conviction.
Limited publicly shared information on licensing practices with regards to applicants with records.	2018 onwards, IDFPR will annually report summary licensing data for the fields listed in section I.

Occupational licensing in Illinois for applicants with prior convictions

- In Illinois, the Illinois Department of Financial and Professional Regulation (IDFPR) administers professional licenses for the most professions.
- With a few exceptions, individuals who have a conviction record are not automatically barred from obtaining a license in Illinois.
- Unlike employers, IDFPR can inquire into sealed records. This may result in a discrepancy between what you state on your application and the background report IDFPR obtains. It is best to seek legal counsel if you would like to know if a sealed conviction should be reported.
- The review process for applicants with prior convictions is longer (Section V) but depending on the case, it may be resolved at or before the informal hearing, with the applicant's initiative and participation.
- If you want to know how your conviction could affect your chances of obtaining a license BEFORE YOUR APPLY, you can seek a non-binding advisory opinion from IDFPR, if they administer the license which interests you. You can find the form here: <http://www.idfpr.com/Forms/F2035.pdf>
- For certain licenses, including the ones listed in section I, you can apply to obtain a Certificate of Relief from Disabilities. Even though it does not guarantee licensure, the Certificate may serve as objective evidence of your rehabilitation in your license application.

With Public Act 99-0876, discretionary license denials for 14 licensed occupations are limited to directly related offenses. But directly related offenses can be the basis of a denial only after evidence of the applicant's rehabilitation has been considered.

III. WHAT IT MEANS:

If you apply for any license listed in section I and have a prior conviction for any of the following “directly related” offenses, then you could, but do not have to be denied a license. A conviction for the following poses a discretionary, not mandatory bar. Any offenses NOT identified below cannot be the sole basis for denying you a license:

Funeral Directors and Embalmers Licensing Code	Illinois Roofing Industry Licensing Act	Barber, Cosmetology, Esthetics, Hair Braiding, Barbering, and Nail Technology Act of 1985			
<ol style="list-style-type: none"> 1) First degree murder 2) Second degree murder 3) Drug induced homicide 4) Unlawful restraint 5) Aggravated unlawful restraint 6) Forcible detention 7) Involuntary servitude 8) Involuntary sexual servitude of a minor 9) Predatory criminal sexual assault of a child 10) Aggravated criminal sexual assault 11) Criminal sexual assault 12) Criminal sexual abuse 13) Aggravated kidnaping 14) Aggravated robbery 15) Armed robbery 16) Kidnapping 17) Aggravated battery 18) Aggravated vehicular hijacking 19) Terrorism 20) Causing a 	<ol style="list-style-type: none"> catastrophe 21) Possession of a deadly substance 22) Making a terrorist threat 23) Material support for terrorism 24) Hindering prosecution of terrorism 25) Armed violence 26) Felony based on consumer fraud or deceptive business practices under the Consumer Fraud and Deceptive Business Practices Act 27) Felony requiring registration as a sex offender under the Sex Offender Registration act 28) Attempts of any of the listed offenses 29) Violations of the Act which would be grounds for discipline. 	<ol style="list-style-type: none"> 1) First degree murder 2) Second degree murder 3) Drug induced homicide 4) Unlawful restraint 5) Aggravated unlawful restraint 6) Forcible detention 7) Involuntary servitude 8) Involuntary sexual servitude of a minor 9) Predatory criminal sexual assault of a child 10) Aggravated criminal sexual assault 11) Criminal sexual assault 12) Criminal sexual abuse 13) Aggravated kidnaping 14) Aggravated robbery 15) Armed robbery 16) Kidnapping 17) Aggravated battery 18) Aggravated vehicular hijacking 19) Home invasion 20) Terrorism 21) Causing a 	<ol style="list-style-type: none"> catastrophe 22) Possession of a deadly substance 23) Making a terrorist threat 24) Material support for terrorism 25) Hindering prosecution of terrorism 26) Armed violence 27) Felony based on consumer fraud or deceptive business practices under the Consumer Fraud and Deceptive Business Practices Act 28) Felony requiring registration as a sex offender under the Sex Offender Registration act 29) Attempts of any of the listed offenses 30) Misdemeanor or felony convictions for improperly advertising a roofing license or for violations of the Illinois Roofing Industry Licensing Act 	<ol style="list-style-type: none"> 1) First degree murder 2) Second degree murder 3) Drug induced homicide 4) Unlawful restraint 5) Aggravated unlawful restraint 6) Forcible detention 7) Involuntary servitude 8) Involuntary sexual servitude of a minor 9) Predatory criminal sexual assault of a child 10) Aggravated criminal sexual assault 11) Criminal sexual assault 12) Criminal sexual abuse 13) Aggravated kidnaping 14) Aggravated robbery 15) Armed robbery 16) Kidnapping 17) Aggravated battery 18) Aggravated vehicular hijacking 19) Terrorism 20) Causing a catastrophe 	<ol style="list-style-type: none"> 21) Possession of a deadly substance 22) Making a terrorist threat 23) Material support for terrorism 24) Hindering prosecution of terrorism 25) Armed violence 26) Felony based on consumer fraud or deceptive business practices under the Consumer Fraud and Deceptive Business Practices Act 27) Felony requiring registration as a sex offender under the Sex Offender Registration act 28) Attempts of any of the listed offenses 29) Convictions set forth in Section 4-20 of the Act. These include unlicensed practice, obtaining or attempting to obtain a license and other things through fraudulent misrepresentation, willfully making any false oath or affirmation whenever an oath or affirmation is required by the Act and violation of any provisions of the Act.

Beyond a conviction record: Mitigating and Rehabilitative Factors

If you're a license applicant for any of the professions listed in section I and were previously convicted of any offense listed above then you may be denied a license ONLY AFTER IDFPFR has individually assessed your case and considered factors other than your conviction and evidence of rehabilitation that you provide. Listed below are some of these factors.

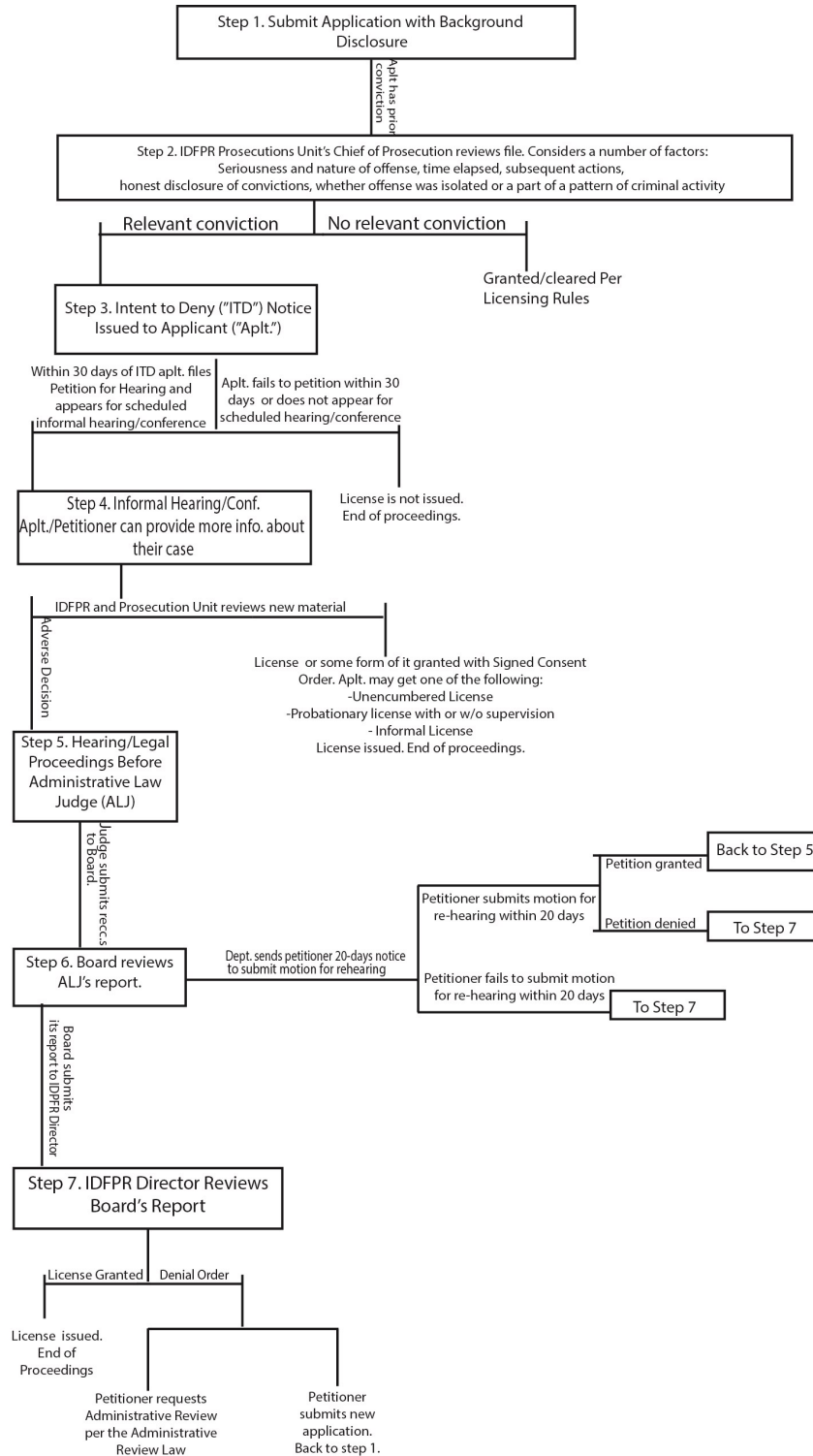
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| <p>a. If your prior conviction of a directly related offense will affect your ability or fitness to perform your duties</p> <p>b. The time that has elapsed since your conviction</p> <p>c. Your age at the time of your conviction. If you were young when you committed the offense, then IDFPFR may see it</p> | <p>as youthful indiscretion, unlikely to recur.</p> <p>d. The lack of prior disciplinary action by IDFPFR or a licensing authority in any other State or jurisdictions, hospitals, health care facilities, residency programs, employers, insurance providers, or by any of the armed forces of the United States or any state</p> | <p>e. If you are remorseful for having committed the offense</p> <p>f. Cooperation with IDFPFR or investigative authorities</p> <p>g. Restitution to the injured parties</p> <p>h. Any other voluntary remedial actions</p> <p>i. If the misconduct was self-reported</p> |
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IV. WHAT PA 99-0876 CANNOT DO:

It cannot prevent IDFPFR from considering convictions for unrelated offenses as evidence that supports other basis for denial. So for instance, say you have a drug conviction. You cannot be denied a license based solely on such a conviction. However, the licensing authority could use your drug conviction to illustrate other reasons for denying a license like habitual use of a substance that may impair capacity to work. Or if you fail to report a conviction, that could be perceived as lying and unprofessional conduct which also is a reason for discretionary denial.

V. IDFPR's occupational licensing process for applicants with conviction records based on their report to Inventorying Employment Restrictions Task Force

Linked : <http://www.icjia.org/ERTF/pdf/StateAgencyReports/illinois%20Department%20of%20Financial%20and%20Professional%20Regulations/illinois%20Department%20of%20Financial%20and%20Professional%20Regulations%20report.pdf>



WE WOULD LIKE TO HEAR FROM YOU.

We have been working with IDFPR and advocates to improve the licensing process for individuals with records. If you as an individual with an arrest or conviction record apply for any of the licenses in Section I after the law goes into effect in January 2017, we would like to hear about the outcome of your application and your experience to guide future changes.

Please contact Anthony.Lowery@saferfoundation.org.