

Information in State statutes and regulations relevant to the National Background Check Program: Illinois

This document describes what was included as of January 2011 in Illinois statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Illinois has two relevant statutes and regulations, both of which were used in gathering information for this document, and which are listed below in the State Statutes and Regulations section.

Key Feature	Description
Specific facility and provider types	The State covers eight of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), namely: skilled nursing facilities, nursing facilities, home health agencies, hospice care providers, LTC hospitals, adult day care, residential care providers, and intermediate care facilities for the mentally retarded.
Registry checks	Not addressed.
Fingerprinting	Not addressed.
Rap back	Illinois has a rap back process in place.
Provisional employment	The State offers applicants provisional employment for a period of three months.
Definition of direct patient access employee	<p>Illinois does not have a definition of direct patient access employee; however, the following individuals are required to have a criminal background check:</p> <ul style="list-style-type: none"> • every individual employed or retained by a health care employer as a home health care aide, nurse aide, personal care assistant, private duty nurse aide, or day training employee, • every individual working in any similar health-related occupation in which he or she provides direct care to or has access to LTC residents, or has access to the living quarters or financial, medical, or personal records of LTC residents, and • all employees of licensed or certified LTC facilities who have or may have contact with residents or access to the living quarters or the financial, medical, or personal records of residents.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	Not addressed.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> 1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1)) 2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2)) 3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3)) 4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4)) 	<ol style="list-style-type: none"> 1. Not addressed. 2. State statutes and regulations may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes. 3. Not addressed. 4. Not addressed.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Illinois identifies many specific disqualifying convictions. More information on the disqualifying convictions can be found in Appendix A.</p>
<p>Opportunity to contest accuracy of background check findings</p>	<p>Not addressed.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>Not addressed.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>The State’s process takes into account the following: elapsed time since the disqualifying conviction took place, extenuating circumstances, rehabilitation, and relevance of the conviction to the job in question.</p>
<p>Independence of appeal or review process</p>	<p>Not clear.</p>

State Statutes and Regulations

Citation	Description
225 Illinois Compiled Statutes Annotated 46	This deals with background checks for non-licensed employees of health care providers.
Illinois Administrative Code Title 77, Part 955	This includes background check program regulations.

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions are:

- solicitation of murder,
- solicitation of murder for hire,
- first degree murder,
- intentional homicide of an unborn child,
- second degree murder,
- voluntary manslaughter of an unborn child,
- involuntary manslaughter and reckless homicide,
- concealment of homicidal death,
- involuntary manslaughter and reckless homicide of an unborn child,
- drug-induced homicide,
- kidnapping,
- aggravated kidnapping,
- child abduction,
- aiding and abetting child abduction,
- unlawful restraint,
- aggravated unlawful restraint,
- forcible detention,
- indecent solicitation of a child,
- sexual exploitation of a child,
- sexual misconduct with a person with a disability,
- exploitation of a child,
- child pornography,
- assault,
- aggravated assault,
- battery,
- battery of an unborn child,

- domestic battery,
- aggravated domestic battery,
- aggravated battery,
- heinous battery,
- aggravated battery with a firearm,
- aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm,
- aggravated battery of a child,
- aggravated battery of an unborn child,
- aggravated battery of a senior citizen,
- drug-induced infliction of great bodily harm,
- tampering with food, drugs, or cosmetics,
- aggravated stalking,
- home invasion,
- criminal sexual assault,
- aggravated criminal sexual assault,
- predatory criminal sexual assault of a child,
- criminal sexual abuse,
- aggravated criminal sexual abuse,
- abuse and criminal neglect of a LTC facility resident,
- criminal abuse or neglect of an elderly person or person with a disability,
- endangering the life or health of a child,
- ritual mutilation,
- ritualized abuse of a child,
- theft,
- theft of lost or mislaid property,
- retail theft,
- identity theft,
- aggravated identity theft,
- financial exploitation of an elderly person or a person with a disability,
- forgery,
- robbery,
- armed robbery,
- aggravated robbery,
- vehicular hijacking,
- aggravated vehicular hijacking,
- burglary,
- residential burglary,
- criminal trespass to a residence,
- arson,

- aggravated arson,
- residential arson,
- unlawful use of weapons,
- unlawful use or possession of weapons by felons or persons in the custody of Department of Corrections facilities,
- aggravated discharge of a firearm,
- aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm,
- reckless discharge of a firearm,
- aggravated unlawful use of a weapon,
- unlawful discharge of firearm projectiles,
- unlawful sale or delivery of firearms on the premises of any school,
- armed violence,
- endangering the life or health of a child,
- permitting sexual abuse of a child,
- receiving a stolen credit or debit card,
- receiving a lost or mislaid credit or debit card with intent to use, sell, or transfer,
- selling a credit card or debit card without the consent of the issuer,
- using a credit or debit card with the intent to defraud,
- fraudulent use of electronic transmission,
- cruelty to children,
- manufacture, delivery, or possession with intent to deliver or manufacture of cannabis,
- cannabis trafficking,
- delivery of cannabis on school grounds,
- delivering cannabis to a person under 18,
- calculated criminal cannabis conspiracy,
- manufacture or delivery, or possession with intent to manufacture or deliver, of a controlled substance other than methamphetamine, a counterfeit substance, or a controlled substance analog,
- controlled substance trafficking, manufacture, distribution, advertisement, or possession with intent to manufacture or distribute a look-alike substance,
- calculated criminal drug conspiracy,
- criminal drug conspiracy,
- delivering a controlled, counterfeit, or look-alike substance to a person under 18,
- engaging or employing a person under 18 to deliver a controlled, counterfeit, or look-alike substance,
- practice of nursing without a license (a violation under the Nurse Practice Act), and
- violations under the Methamphetamine Control and Community Protection Act.