

ILLINOIS REGISTER

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The Department of Financial and Professional Regulation is posting these proposed amendments in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

These proposed rules were published in the April 22, 2011 Illinois Register. The 45 day comment period will end June 6, 2011.

Please submit written comments to Craig Cellini as stated in the attached notice.

THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.

- 1) Heading of the Part: Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004
- 2) Code Citation: 68 Ill. Adm. Code 1240
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1240.500	Amendment
1240.520	Amendment
1240.530	Amendment
1240.535	Amendment
1240.550	Amendment
1240.570	Amendment
1240.600	New Section
1240.610	New Section
1240.620	New Section
1240.630	New Section
- 4) Statutory Authority: Implementing the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and authorized by Section 2105-15(7) and 2105-100 (b) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7) and 2105-100(b)].
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 95-613 amended the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 to provide for

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the licensure of fingerprint vendors; this proposed rulemaking implements its provisions. Subpart G: Fingerprint Vendor, which is being added to this Part, includes Sections for fingerprint vendor and fingerprint vendor agency licensure, standards, and training. Section 1240.620 encompasses the guidelines for standards of practice and details unethical, unauthorized and unprofessional conduct. The rule changes being made include some clean-up references but primarily identify the specific information needed for licensing and regulation of the fingerprint vendor profession including agency licensure.

The Division will work closely with the Illinois State Police-Joliet since the machines used for fingerprinting will be approved for use by the ISP and fingerprint vendor training will be conducted by the ISP as well.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace emergency rules currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Craig Cellini, Rules Coordinator
Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax #: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Private detectives, security contractors, alarm contractors, locksmiths, and agencies and employees regulated under the Act will be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Training and/or experience in various security or other related areas are necessary for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2010

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1240

PRIVATE DETECTIVE, PRIVATE ALARM,
PRIVATE SECURITY, FINGERPRINT VENDOR, AND LOCKSMITH ACT OF 2004

SUBPART A: PRIVATE DETECTIVE

Section
1240.10 Application for Examination and Licensure – Private Detective

SUBPART B: PRIVATE ALARM

Section
1240.100 Application for Examination and Licensure – Private Alarm Contractor

SUBPART C: PRIVATE SECURITY

Section
1240.200 Application for Examination and Licensure – Private Security Contractor

SUBPART D: LOCKSMITH

Section
1240.300 Application for Examination and Licensure – Locksmith
1240.310 20-Hour Basic Training Course – Locksmith
1240.320 Recordkeeping Requirements – Locksmith

SUBPART E: PROPRIETARY SECURITY FORCE

Section
1240.400 Registration of Proprietary Security Force

SUBPART F: GENERAL

Section
1240.500 Definitions
1240.505 20-Hour Basic Training Course – Private Detective, Private Alarm Contractor and
Private Security Contractor
1240.510 Firearm Training Course
1240.515 Approval of Firearm Training Programs and Firearm Instructors
1240.520 Permanent Employee Registration Card
1240.525 Refusal to Issue Employee Registration Card or Firearm Authorization Card Due

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	to Criminal History Record Information
1240.530	Firearm Authorization Cards
1240.535	Recordkeeping Requirements
1240.540	Reporting Requirements
1240.550	Renewals
1240.555	Endorsement
1240.560	Restoration
1240.561	Inactive Status
1240.565	Requests for Duplicate Certificates
1240.570	Fees
1240.575	Conduct of Hearings
1240.580	Investigation by the Division
1240.585	Granting Variances

SUBPART G: FINGERPRINT VENDOR

<u>1240.600</u>	<u>Application for Licensure – Fingerprint Vendor</u>
<u>1240.610</u>	<u>Licensure – Fingerprint Vendor Agency</u>
<u>1240.620</u>	<u>Fingerprint Vendor – Standards, Unethical, Unauthorized, or Unprofessional Conduct</u>
<u>1240.630</u>	<u>Fingerprint Vendor - Training</u>

AUTHORITY: Implementing the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and authorized by Section 2105-15(7) and 2105-100 (b) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7) and 2105-100(b)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Detective Act, effective October 7, 1975; amended at 4 Ill. Reg. 22, p. 251, effective May 15, 1980; codified at 5 Ill. Reg. 11032; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8208, effective July 15, 1982; emergency amendment at 8 Ill. Reg. 903, effective January 6, 1984, for a maximum of 150 days; Part repealed and new Part adopted at 9 Ill. Reg. 18512, effective November 15, 1985; transferred from Chapter I, 68 Ill. Adm. Code 240 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1240 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2967; amended at 12 Ill. Reg. 20143, effective November 18, 1988; amended at 15 Ill. Reg. 3051, effective February 11, 1991; amended at 17 Ill. Reg. 1579, effective January 26, 1993; amended at 19 Ill. Reg. 954, effective January 17, 1995; amended at 19 Ill. Reg. 11473, effective

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July 28, 1995; emergency amendment at 19 Ill. Reg. 13460, effective September 8, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 3191, effective February 2, 1996; emergency amendment at 20 Ill. Reg. 14924, effective October 31, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3135, effective March 4, 1997; amended at 24 Ill. Reg. 587, effective December 31, 1999; emergency amendment at 27 Ill. Reg. 1307, effective January 13, 2003, for a maximum of 150 days; emergency expired June 11, 2003; amended at 27 Ill. Reg. 9587, effective June 13, 2003; old Part repealed, new Part adopted at 28 Ill. Reg. 16209, effective December 2, 2004; amended at 35 Ill. Reg. _____, effective _____.

SUBPART F: GENERAL

Section 1240.500 Definitions

"Act" means Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004 [225 ILCS 447].

"Board" means the Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Board.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"ISP" means the Illinois State Police.

"Participation in agency affairs" – Participation in agency affairs includes but is not limited to responsibility for delivery of professional services and compliance with the Act, including employee recordkeeping, training, activities and conduct, and the review and approval of contracts and proposals. Participation in agency affairs also includes responsibility of the licensee-in-charge for maintaining at a location within Illinois all files subject to audit or inspection pursuant to Section 35-10 of the Act. The address of the location where files are maintained shall be on file with the Division. If an agency does not maintain an office or jobsite within Illinois or the licensee-in-charge resides outside of the State, it may seek a variance from the requirement of this Part pursuant to Section 1240.585. In determining whether a licensee-in-charge participates in agency affairs, the

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Division may consider those responsibilities identified in this Section, the number of employees under the direct supervision of the licensee-in-charge, and the employment relationship between the licensee-in-charge and the agency, including the existence of a contract for employment and any other relevant fact or circumstance.

"Qualified Instructor" – An individual employed or retained by a licensed agency under the Act who can provide the basic training as outlined in the Act. This shall include:

A licensed private detective, private alarm contractor, private security contractor or locksmith active and in good standing;

A registered employee, retained or employed by a licensed agency, who has a minimum of 5 years experience in the discipline being taught and has been conducting training classes in at least 3 of the past 5 years;

Registered employees of licensed agencies with a least 3 years full-time supervisory experience in the area in which the individual will conduct training;

Full time or part-time faculty employed by an institution under the jurisdiction of the Illinois Board of Higher Education or the Illinois Community College Board to teach firearms training courses or security training courses.

A registered employee, retained or employed by a licensed agency, who has a baccalaureate degree in education, business, law enforcement or other related degree to provide training in the discipline to be taught or has 3 years previous experience as a corporate trainer or equivalent in another industry.

For private alarm contractors, a qualified instructor may also include factory trained and certified personnel on the types of systems or work being trained; National Institute of Certification in Engineering Technologies (NICET) certified personnel; or a Certified Protection Professional (CPP) as designated by the American Society for Industrial Security.

"Related to" – The immediate family living in the same household.

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"Restored" – A court has declared an individual to be competent, as referenced in Section 35-30 of the Act.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Traffic Offense" – As used in Section 35-30(1)(C) of the Act, does not include a misdemeanor or felony conviction related to vehicle usage.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1240.520 Permanent Employee Registration Card

- a) Any person seeking employee registration under Section 35-30 of the Act shall file an application with the Division, on forms provided by the Division, along with the following:
 - 1) One of the following:
 - A) Copy of the verification of~~Verification of electronic~~ fingerprint processing from the ISP Illinois Department of State Police or from one of the ISP live scan Illinois State Police approved vendors whose equipment has been certified by the ISP or a fingerprint vendor agency licensed by the Division.~~Applicants shall contact one of the approved vendors for fingerprint processing;~~
 - B) Out-of-state residents unable to utilize the ISP electronic~~Illinois State Police~~ fingerprint process may submit to one of the ISP Illinois State Police approved vendors one fingerprint card issued by the ISP Illinois State Police, accompanied by the fee specified by the ISP~~vendor~~; or
 - C) Verification, on forms provided by the Division, of proof of retirement as a peace officer as defined in subsection (g) within 12 months prior to application in lieu of fingerprints. Such verification shall be signed by the applicant's employer;
 - 2) The required registration fee specified in Section 1240.570, made payable to the Division of Professional Regulation.

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- b) An agency may employ an applicant in a temporary capacity in accordance with Section 35-30(k) of the Act by:
 - 1) submitting the required application in accordance with subsection (a) on behalf of the person or verifying with the Division that an application has been submitted for the individual;
 - 2) verifying on the Division's website (www.idfpr.com) that the applicant has no criminal conviction pursuant to the ~~ISP~~Illinois Division of State Police criminal history check;
 - 3) maintaining a separate roster of the names of all employees whose applications are pending; and
 - 4) meeting any other requirements set forth in this Part or the Act.
- c) If no record is found relating to the fingerprints and the applicant is otherwise qualified under the Act, the Division shall issue to the applicant a permanent employee registration card that shall be valid for the period specified on the face of the card and shall be renewable upon the conditions set forth in Section 1240.550 of this Part.
- d) A valid permanent employee registration card shall serve as proof to an employer that the bearer is eligible for employment.
- e) Exempt employees are as follows:
 - 1) **Private Detective.** Persons who have no access to confidential or detective related information and who otherwise do not provide traditional detective related services are exempt from employee registration. Examples of exempt employees include reception personnel. Confidential or detective related information is that which pertains to employee files, scheduling, client contracts or technical data.
 - 2) **Private Alarm Contractor.** Persons who have no access to confidential or alarm related information and who otherwise do not provide traditional alarm related services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of reception personnel. Confidential or security

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information is that which pertains to employee files, scheduling, client contracts or technical alarm data.

- 3) Private Security Contractor. Persons who have no access to confidential or security information and who otherwise do not provide traditional security services are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of ticket takers, cashiers, drivers, ushers and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts or technical security data.
- 4) Locksmith. *Persons who have no access to confidential or security information and who otherwise do not provide traditional locksmith services, as defined in this Act, are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of key cutters, cashiers, drivers, and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts, master key charts, access codes, or technical security and alarm data. (Section 30-5(10) of the Act)*
- 5) Fingerprint Vendor
 - A) Persons who have no access to confidential or security information and who otherwise do not provide or operate fingerprint equipment or other equipment designed to obtain fingerprint images for the purpose of providing fingerprint images and associated demographic data to ISP are exempt from employee registration. Examples of exempt employees include, but are not limited to, employees working in the capacity of cashiers, ushers and reception personnel. Confidential or security information is that which pertains to employee files, scheduling, client contracts or technical security data.
 - B) No registered employee of a licensed fingerprint vendor agency may operate live scan fingerprint equipment or other equipment designed to obtain fingerprint images for the purpose of providing fingerprint images and associated demographic data to ISP. (Section 31-20(d) of the Act)

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- 6) Individuals who are currently employed as peace officers in good standing are not required to obtain permanent employee registration cards. If the individual ceases to be employed as a peace officer, then the agency is required to obtain a permanent employee registration card in accordance with this Section.
- 7)6) *A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary 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 shall be considered peace officers. (Section 5-10 of the Act)*
- 8)7) All employees of any agency licensed under the Act who reside outside of Illinois and who perform no duties in Illinois.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1240.530 Firearm Authorization Cards

- a) Each employer shall make a request to the Division, on forms supplied by the Division, for the issuance of a firearm authorization card for each employee whose duties include the use, carrying or possession of a firearm. Each employee shall have an active permanent employee registration card issued in accordance with Section 1240.520 prior to applying for a firearm authorization card unless employed by a proprietary security force in accordance with Section 1240.400.
- b) Upon verification by the Division that the individual employees have completed the required firearm training course within the 2 years preceding the request for a firearm authorization card, and meet all the requirements of the Act for issuance of a firearm authorization card, the Division shall issue a card to the employer for each employee. If the employee's firearm training was completed more than 2 years before the request for a firearm authorization card, the employer shall submit evidence that the employee has requalified on the firing range within one year preceding the request.
- c) The firearm authorization card shall be retained by the employee for the term of employment. Upon termination of employment, the card shall be returned to the Division by the employer. In the event an employee fails to return a firearm

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authorization card to the employer, the employer shall notify the Division in writing of the failure and the reason why the card was not returned.

- d) No employee may carry a firearm until the requirements of this Section have been satisfied.
- e) If an employee is employed by more than one agency, regardless of whether the agencies are owned or operated by the same person or different persons, that employee must possess a separate firearm authorization card for each agency.
- f) Individuals who are employed as peace officers in good standing are not required to obtain firearm authorization cards. If the individual ceases to be employed as a peace officer, then the individual is required to obtain a firearm authorization card in accordance with this Section.
- g) *A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary 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 shall be considered peace officers. (Section 5-10 of the Act)*
- h) A person licensed as a fingerprint vendor or any employee of a licensed fingerprint vendor agency may not possess or carry a firearm in the course of providing fingerprinting services. This subsection shall not apply to an active duty sworn peace officer acting within the scope of his or her duties.
- i) The Division shall not grant or authorize the issuance of a firearm control card to a fingerprint vendor or any employee of a licensed fingerprint vendor agency unless:
 - 1) the individual is licensed as a private detective, private alarm contractor or private security contractor; or
 - 2) the individual is employed by a private detective agency, private alarm contractor agency or private security agency licensed under the Act who carries a weapon while engaged in the performance of his or her official services providing detective, private security contracting or alarm contractor duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is

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commuting between his or her home or place of employment, provided that commuting is accomplished within one hour from departure from home or place of employment and the individual is not providing fingerprinting services while possessing or carrying a firearm; or

- 3) the person is employed by an armed proprietary security force registered under this Act who carries a weapon while engaged in the performance of his or her official duties within the course and scope of his or her employment during the hours and times the employee is scheduled to work or is commuting between his or her home or place of employment, provided that commuting is accomplished within one hour from departure from home or place of employment and the individual is not providing fingerprinting services.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1240.535 Recordkeeping Requirements

- a) Each employer licensed under the Act shall maintain a file on each employee pursuant to Section 35-30 of the Act. The employee file shall be maintained by the agency for 5 years after termination of the employee, shall be accessible to duly authorized representatives of the Division with 24 hours prior notice (72 hours notice for files more than 2 years old), and shall contain the following information:
 - 1) A photograph of the employee taken within 10 days after the date the employee commences employment. The photo shall be replaced every 3 calendar years;
 - 2) The employee's statement required in Section 35-30(b) of the Act;
 - 3) All correspondence or documents related to the character and integrity of the employee received by the employer from an official source or law enforcement;
 - 4) The employee identification card of a terminated employee pursuant to Section 35-30(h);
 - 5) A copy of the weapons discharge report, if applicable, during the course of the employee's duties or activities;

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- 6) Application for employment;
 - 7) Certification of Completion of Basic and/or Refresher Training as provided in Section 1240.505 of this Part;
 - 8) Certificate of Firearm Training, if applicable (or notarized copy as provided in Section 1240.510 of this Part) verified by the licensee in charge;
 - 9) Copy of employee's permanent employee registration card and firearm authorization card and active Firearm Owner's Identification Card (FOID), if applicable;
 - 10) Certification or certified copy of requalification (Section 1240.510);
 - 11) Copy of the verification of fingerprint processing from the ~~ISP~~Illinois Department of State Police or from one of the ISP live scan vendors whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Division ~~Illinois State Police designated agents~~;
 - 12) A copy of the Division's webpage (www.idfpr.com) showing that an applicant has no criminal conviction pursuant to the ~~ISP~~Illinois Department of State Police criminal history check for individuals employed prior to issuance of the permanent employee registration card; and
 - 13) For active peace officers, the agency employee file shall include a copy of the current police identification card and, within 14 days after employment a signed letter from the peace officer's chief of police or his/her designee (or Division verification of employment form) indicating current status as a peace officer, as well as items set forth in subsections (a)(1), (4), (5) and (6). The agency shall annually re-verify and maintain proof of the employee's qualifications for the peace officer exemption.
- b) Private alarm contractors who provide monitoring services shall maintain a separate roster of the names of all licensed agencies and/or individuals, including license number, from whom they accept monitoring contracts or assignments. The roster shall be made available to the Division upon 24 hours notice. It shall be considered unprofessional conduct, subject to discipline by the Division, for a

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licensed alarm contractor or agency to accept monitoring contracts or assignments from an unlicensed entity.

c) Fingerprint Vendors Records

- 1) A fingerprint vendor or fingerprint vendor agency shall document in the form of a work order the date, time and location where each and every fingerprint service is provided;
- 2) The fingerprint vendor shall require each individual seeking to be fingerprinted to present a Primary, Secondary or Requesting Agency authorized form of identification in order to be fingerprinted by the fingerprint vendor. The work order shall describe the form of identification presented by the individual seeking to be fingerprinted.
 - A) Primary Identification - The work order shall include the name, address, date of birth, social security number or documentation of legal status, aliases, telephone number and driver's license number or Secretary of State issued State identification number of the person requesting to be fingerprinted, the signature of that person, and the Transaction Control Number (TCN) for that fingerprint request.
 - B) Secondary Identification – The work order shall include all of the information set forth in subsection (c)(2)A). In the absence of a driver's license or State identification number, the work order shall contain written verification that the individual seeking to be fingerprinted provided at least two forms of identity verification described within the Identity Verification Program Guide developed and available from the National Crime Prevention and Privacy Compact Council. A copy of the documentation used to establish identity verification shall be attached as part of the work order.
 - C) Requesting Agency Authorized Identification – The work order shall include all of the information set forth in subsection (c)(2)(A). If the individual is unable to provide a driver's license, Secretary of State issued State identification or any identity verification set forth in subsection (c)(2)(B), the agency requesting the individual to be fingerprinted must authorize an alternative

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form of identification to be used to verify the identity of the individual seeking to be fingerprinted. The work order must contain documentation confirming that the requesting agency authorized the use of an alternative form of identification in the absence of a Primary or Secondary form of identity verification. A copy of the requesting agency authorized identity verification documentation shall be attached as part of the work order;

- 3) All work orders shall contain the name and license number of the licensed fingerprint vendor who performed the services;
- 4) If a licensee is employed by more than one fingerprint vendor agency, the employer that the licensed employee is providing fingerprint services for must be identified on the work order by the agency license number;
- 5) All work orders, including fee applicant submissions, shall be maintained for a minimum of two years from the date of printing. The records may be maintained in an electronic format so long as the records cannot be altered. Corrections may be made but must be noted in the record;
- 6) Each fee applicant submission shall contain the originating identifier (ORI) number of the agency requesting the fingerprints;
- 7) All fee applicant submissions must contain a photograph of the individual who was fingerprinted. The photos shall be maintained in an electronic format and shall be forwarded to ISP along with any request for criminal history record information or other information;
- 8) All work orders that are requesting a re-print of a previously fingerprinted individual shall contain the reason for the re-print request;
- 9) A copy of those items used to establish the identity of the individual being printed shall be provided;
- 10) A licensed fingerprint vendor must develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying identifiers and other biometric information when the initial purpose for collecting or obtaining the identifiers or information has been satisfied or after 3 years from the individual's last interaction with the licensed fingerprint vendor, whichever occurs first. Absent a

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valid warrant or subpoena issued by a court of competent jurisdiction, a private entity in possession of biometric identifiers or biometric information must comply with its established retention schedule and destruction guidelines;

- 11) Work order forms, including fee applicant submissions, required to be kept under this Section shall be available for inspection by the Division or by ISP at the discretion of the Division or ISP, respectively. The Division shall have the right to audit records of a licensed fingerprint vendor to ensure compliance with the Act and this Part;
- 12) A licensed fingerprint vendor shall provide and obtain a signed consent form from the applicant prior to the fingerprinting of any individual fingerprinted for all civil submissions. The privacy statement within the consent form must be pre-approved by ISP.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 1240.550 Renewals

- a) Beginning with the May 1999 renewal, every individual license issued under the Act shall expire on May 31 every 3 years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee set forth in Section 1240.570 and providing proof of liability insurance as evidenced by a certificate of insurance from the insurer.
- b) Beginning with the May 1999 renewal, every certificate of registration for an agency and every branch office and proprietary security force certificate issued under the Act shall expire on August 31 every 3 years. The holder of a certificate of registration may renew such certificate during the month preceding the expiration date by paying the required fee.
- c) Beginning with the May 2000 renewal, every employee registration card issued under the Act shall expire on May 31 every 3 years. The holder of the card may renew the card during the month preceding the expiration date by submitting the required fee to the Division.
- d) It is the responsibility of each licensee and employee registration card holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew one's license

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or employee registration card or to pay the renewal fee. Practicing on an expired license or employee registration card is unlicensed practice and subject to discipline under Section 45-10 of the Act.

- e) Every firearm authorization card shall expire on the date specified on the face of the card. The card shall be renewed upon proof that:
 - 1) The employee has been requalified on the firing range within one year preceding the renewal date; and
 - 2) The employee continues to be employed by the agency to which the card was issued.
- f) No employer shall, after the expiration of a firearm authorization card, employ the holder of the card in an armed capacity.
- g) In addition to the other requirements of this Section, fingerprint vendor licensees shall provide the following in order to renew:
 - 1) verification that the applicant's fingerprinting equipment and software meets all specifications outlined in Section 1240.600 and that the equipment has been scheduled for recertification if required by ISP, or the licensee has received notice from ISP that recertification is not required at the time of renewal. The licensed vendor shall maintain all correspondence or notices related to recertification of equipment that have been received from ISP for a period of 6 years since the last renewal of the vendor's license. The correspondence or notices shall be made available to the Division upon request. Current certification with ISP is a continuing requirement of licensure;
 - 2) verification that the licensee currently maintains insurance in the type and amounts required in Section 1240.600. Insurance in the type and amounts required in Section 1240.600 shall be a continuing requirement for licensure;
 - 3) the licensee shall provide proof, acceptable to the Division, that the requirements of subsections (g)(1) and (2) have been met.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

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Section 1240.570 Fees

The following fees shall be paid to the Division and are not refundable:

- a) Application Fees
 - 1) The fee for application for a license as a private detective, security contractor, alarm contractor, fingerprint vendor, or locksmith is \$500. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 2) The fee for application for an agency certificate is \$500.
 - 3) The fee for application for a branch office certificate is \$200.
 - 4) The fee for issuance of a permanent employee registration card is \$55.
 - 5) The fee for issuance of a firearm authorization card is \$55.
 - 6) The fee for issuance of an armed proprietary security force registration is \$20.
 - 7) The fee for the ISP fingerprint training course is the fee charged by ISP.
 - 8) The fee for ISP equipment certification or recertification is the fee charged by ISP.
- b) Renewal Fees
 - 1) The fee for the renewal of a license shall be calculated at the rate of \$150 per year.
 - 2) The fee for the renewal of an agency certificate is \$450 for the renewal period (see Section 1240.550(b)).

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- 3) The fee for the renewal of a branch office certificate is \$200 for the renewal period (see Section 1240.550(b)).
 - 4) The fee for the renewal of a permanent employee registration card is \$45 for the renewal period (see Section 1240.550(c)).
 - 5) The fee for the renewal of a firearm authorization card is \$45 for the renewal period (see Section 1240.550(c)).
 - 6) The fee for the renewal of an armed proprietary security force registration is \$20 for the renewal period (see Section 1240.550(b)).
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees; the fee for restoration from inactive status is the current renewal fee.
 - 2) The fee for the issuance of a duplicate/replacement license, agency certificate of registration, permanent employee registration card, Certification of Firearm Training, firearm authorization card, or a certificate issued for a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
 - 3) The fee for reissuance of a firearm authorization card to an agency that has changed its name is \$10.
 - 4) The fee for electronic fingerprint processing by one of the designated vendors is the cost of processing that shall be made payable to the vendor.
 - 5) The fee for a certification of a licensee's record for any purpose is \$20.
 - 6) The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20, plus any fee charged by the testing service.
 - 7) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

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- 8) The fee for a roster of licensees or registrants shall be the actual cost of producing the roster.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

SUBPART G: FINGERPRINT VENDOR

Section 1240.600 Application for Licensure – Fingerprint Vendor

- a) An applicant for licensure as a fingerprint vendor shall submit an application, on forms supplied by the Division, that shall include the following:
- 1) verification that the applicant is at least 18 years of age.
 - 2) one of the following:
 - A) Copy of the verification of fingerprint processing from ISP or from one of ISP live scan vendors whose equipment has been certified by the ISP or a fingerprint vendor agency licensed by the Division. Applicants shall not take fingerprints of themselves for processing nor shall the applicant be fingerprinted by any individual or entity by which the applicant is employed;
 - B) Out-of-state residents unable to utilize the ISP electronic fingerprint process may submit to ISP one fingerprint card issued by ISP, accompanied by the fee specified by ISP; or
 - C) In lieu of fingerprints, verification, on forms provided by the Division, of proof of retirement as a peace officer within 12 months prior to application. *A peace officer is defined as any person who by virtue of his/her office or public employment is vested by law with a primary 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 shall be considered peace officers. (Section 5-10 of the Act)* The verification shall be signed by the applicant's employer.

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- 3) certification issued by ISP that the applicant has successfully completed a fingerprint vendor training course conducted or authorized by ISP.
 - 4) proof of at least \$1,000,000 of general liability insurance held by the applicant as evidenced by a certificate of insurance from the insurer. A fingerprint vendor employed by a licensed fingerprint vendor agency may provide proof that his or her actions as a fingerprint vendor are covered by the liability insurance of his or her employer.
 - 5) the required fees specified in Section 1240.570.
 - 6) certification issued by ISP that the applicant's fingerprinting equipment and software meets all specifications of ISP. Compliance with the ISP fingerprinting equipment and software specifications is a continuing requirement for licensure and shall be provided to Division personnel upon request.
 - 7) proof that the applicant maintains an office location in Illinois and attestation that the applicant will operate from that location when providing fingerprint services unless authorized to provide services from a location other than the stated office location.
 - 8) all other information the Division deems relevant to determine the applicant's qualifications under the Act and this Part.
- b) Failure to maintain general liability insurance and failure to provide the Division with written proof of the insurance, upon request, shall result in cancellation of the license without a hearing.
 - c) In addition to any other requirements, an applicant for licensure shall meet the following:
 - 1) Has not been convicted of any felony in any jurisdiction or at least 10 years have elapsed since the time of full discharge from a sentence imposed for a felony conviction;
 - 2) Is of good moral character. Good moral character is a continuing requirement of licensure. Conviction of crimes other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure, except when the applicant is a registered sex offender;

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- 3) 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 subsequently declared him or her to be competent;
- 4) Is not suffering from dependence on alcohol or from narcotic addiction or dependence;
- 5) Has not been dishonorably discharged from the armed forces of the United States;
- 6) Submits his or her fingerprints, in accordance with the provisions of the Act and this Part, including but not limited to the payment of any required fees;
- 7) Has not violated any provision of the Act or this Part;
- 8) Pays all required licensure fees.
- d) A person licensed as a fingerprint vendor or any employee of a licensed fingerprint vendor agency may not possess or carry a firearm in the course of providing fingerprinting services. This subsection shall not apply to an active duty sworn peace officer acting within the scope of his or her duties.
- e) The Division shall not grant or authorize the issuance of a firearm control card to a fingerprint vendor or any employee of a licensed fingerprint vendor agency unless the person is authorized to carry a firearm under the Act or authorized in accordance with Section 1240.530(i).

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1240.610 Licensure - Fingerprint Vendor Agency

- a) An applicant for licensure as a fingerprint vendor agency shall, in accordance with Section 31-15 of the Act, file an application with the Division, on forms provided by the Division, together with the following:
 - 1) Business name and registered address where services are provided if different, of the fingerprint vendor agency;

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- 2) Anyone doing business as (d/b/a) names used by the fingerprint vendor agency and proof of legal authorization to use that name;
 - 3) The type of business (sole proprietorship, partnership, corporation, etc.):
 - A) If a partnership, a listing of all partners and their addresses;
 - B) If a corporation, a copy of the Articles of Incorporation and a listing of all members of the board of directors. If the corporation is a foreign corporation, a copy of the authorization to conduct business in Illinois and a list of all members of the board of directors shall be submitted;
 - C) If a limited liability company, a copy of the Articles of Organization and a listing of all members of the board of directors;
 - 4) The name of the licensed fingerprint vendor who is and who shall remain responsible for the daily activities of the fingerprint vendor agency.
- b) The device identification number (ID number) of all fingerprinting machines utilized by the fingerprint vendor agency and their locations;
 - c) An applicant for a fingerprint vendor agency shall name at least one officer or executive employee who is a licensed fingerprint vendor under the Act who is responsible for the daily activities of the fingerprint vendor agency and any unlicensed officers or directors of the corporation or limited liability company who have been determined by the Division to be persons of good moral character. Maintaining at least one officer or executive employee who is a licensed fingerprint vendor under the Act who shall be responsible for the daily activities of the fingerprint vendor agency shall be a continuing requirement of licensure.
 - d) When the accuracy, relevance or sufficiency of any submitted documentation or information is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
 - 1) Provide information as may be necessary; and/or

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- 2) Appear for an interview before the Board to explain the accuracy, relevance or sufficiency of any submitted documentation or information or lack of information, discrepancies or conflicts in information given.

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1240.620 Fingerprint Vendor – Standards, Unethical, Unauthorized, or Unprofessional Conduct

- a) The Division may deny issuance, refuse to renew, or restore or may reprimand, place on probation, suspend, revoke, or take other disciplinary or non-disciplinary action against any license, registration, or permanent employee registration card, and may impose a fine, based on a finding of unethical, unauthorized or unprofessional conduct, which shall include, but is not limited to, the following acts or practices:
 - 1) Errors and omissions in work orders submitted for print verification or other information, including but not limited to ORI number errors;
 - 2) Errors and omissions in work orders submitted for print verification or other information and not meeting the following standards or levels of performance:
 - A) Demographic field errors shall not exceed the acceptable accuracy rate established by ISP of those records audited by ISP or its designee during any analyzed audit timeframe;
 - B) Fingerprint quality rejects shall not exceed the acceptable error rate established by ISP of those records audited by ISP or its designee during any analyzed audit timeframe;
 - C) Fingerprint visual quality errors shall not exceed the acceptable review rate established by ISP of those records audited by ISP or its designee during any analyzed audit timeframe;
 - 3) Failing to have a clause in all software agreements that a fingerprint vendor licensee enters into to obtain, repair, update and/or maintain fingerprint machines that require a software vendor to maintain the

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confidentiality of information that may be exposed to the software vendor in obtaining, repairing, updating and/or maintaining a fingerprint machine;

- 4) Unlicensed practice by any person employed by, authorized by, assisted by in any manner, or permitted by a licensed fingerprint vendor or licensed fingerprint vendor agency that provides fingerprinting services, including, but not limited to, rolling a print or any other activity defined as unlicensed practice;
- 5) Practicing or offering to practice on an expired or inactive license constituting unlicensed or unauthorized practice;
- 6) Failure to maintain a record for at least 3 years, listing the identification number of the machine used to fingerprint each individual and the location where the individual was fingerprinted;
- 7) A determination and notice from ISP that a licensee is in noncompliance with ISP procedures, policies or practices causing ISP to terminate or otherwise limit that licensee's ability to submit fingerprints to ISP;
- 8) Failure by a licensee to obtain the required consent of any person being printed prior to providing any fingerprint services;
- 9) Providing, selling or offering to sell or provide any information for a fee or any other valuable consideration any information that has been obtained from a person for whom the licensee is providing or has provided fingerprint services;
- 10) Sending or providing fingerprint or other criminal history record information to any party other than to the designated authorized party. "Authorized party" is any party that is authorized by law to request a criminal history record check and receive the results; however, the authorized party shall not be the licensee nor shall fingerprint or other criminal history record information be returned to the licensee;
- 11) Providing or offering to provide services or using techniques for which one is not qualified by education, training and experience or providing or offering to provide services as a fingerprint vendor without proper licensure;

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- 12) Revealing facts, data or information relating to a client or examinee without the expressed consent of the person to whom fingerprinting services are being offered or are being provided or as allowed by law. The release of information with "the expressed consent of the client" shall mean that the licensee, prior to the release of the information, has obtained written consent and made certain that the client understood the possible uses or distributions of the information;
 - 13) Making gross or deliberate misrepresentations or misleading claims as to his/her qualifications;
 - 14) Refusing to divulge to the Division, upon request, all information, records, techniques or procedures used in his/her activities or practice;
 - 15) Directly or indirectly giving to or receiving from any person, firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered;
 - 16) Impersonating another person holding a license or allowing another person to use his/her license to provide fingerprint vendor services;
 - 17) Submission to a third party of fraudulent information relating to any individual;
 - 18) Providing or offering to provide fingerprint services when the licensee has a conflict of interest with the person to whom services are offered or provided. "Conflict of Interest" shall include but is not limited to those situations in which a licensee currently has or may have had a social, business or other relationship of a nature that might impair, or give the appearance of impairing, the impartiality or independence of the licensee. The licensee may only continue to provide or offer to provide fingerprint services to the person after the licensee makes full disclosure of the potential conflict on the work order and explains the conflict of interest to the person to whom fingerprinting services are being offered or provided.
- b) Any licensee who leases, subcontracts or uses any other similar type of arrangement to provide fingerprint scanning equipment or services to an individual or entity shall remain responsible for the actions of the lessee if the licensee maintains any role in the offering or providing of fingerprint services to the public beyond the mere lease of the equipment, including, but not be limited to,

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receiving criminal history record information or other personal information from or on behalf of a lessee, transferring fingerprints to ISP on behalf of a lessee, scheduling appointments for printing services for a lessee, or training the lessee's employees to provide or offer to provide fingerprinting services.

- c) ISP shall not accept or process fingerprint requests from any licensee who the Division has revoked, suspended or otherwise disciplined in a manner prohibiting the licensee from taking fingerprints or providing fingerprint services. The Division shall provide to ISP notice of disciplinary measures taken.
- d) A licensee shall conduct all fingerprint services in accordance with applicable local, State and federal law regarding privacy, confidentiality and information release, including but not limited to the Illinois Biometric Information Privacy Act [740 ILCS 14].

(Source: Added at 35 Ill. Reg. _____, effective _____)

Section 1240.630 Fingerprint Vendor – Training

- a) Every person employed as a registered employee of a fingerprint vendor agency licensed under the Act shall complete, within 30 days beginning employment, a course of basic training provided by the employing agency.
- b) The training shall consist of a minimum of 20 hours related to the individual's employment. The training shall include, at a minimum, the following subject areas:
 - 1) the agency's retention policy required by Section 1240.535(c);
 - 2) the agency's confidentiality policy required by Section 1240.620(d);
 - 3) responsibilities and duties required by the Act and this Part;
 - 4) general information regarding a Personal Employee Registration Card (PERC), including but not limited to:
 - A) cause for revoking the card;
 - B) disciplinary sanctions;

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- C) renewal; and
- 5) the basic operation of a Livescan Machine.
- c) Upon successful completion of the training prescribed in subsection (b), the employer shall issue to the trainee a Certification of Completion of Basic and/or Refresher Training Course, which shall be signed by the instructor teaching the course.
- d) The Certification shall be the permanent record of training and shall be retained by the individual. During the term of the individual's employment with a licensed agency, the Certification or a certified copy shall be filed by the employer with the employee statement required by Section 35-30(b) of the Act and shall remain in the employee's file during the term of employment. Upon termination of employment, the original Certification shall be returned to the employee.
- e) In the case of an employee who is employed by more than one employer, each employer shall require the employee to complete 20 hours training as required in this Section that is specific to that employer.
- f) Training materials shall be made available to the Division, upon request, to allow the Divisions to verify that course content complies with this Section.

(Source: Added at 35 Ill. Reg. _____, effective _____)