

RESOLUTION 2020-83

A RESOLUTION UPDATING AUTHORITY PREVIOUSLY GRANTED TO THE EXECUTIVE DIRECTOR TO GRANT INTERIM FELONY WAIVER APPROVALS

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to authority granted to it under Ind. Code art. 4-33, Ind. Code art. 4-35 and pursuant to 68 IAC 1-2-6. The following factors have been considered by the Commission:

1. Pursuant to IC 4-33-3-18 and IC 4-35-4-1, the Commission may, by resolution, assign to the Executive Director any duty imposed upon the Commission by IC 4-33 and 4-35. The Executive Director shall perform duties and exercise any power conferred upon him/her by the Commission.
2. Under IC 4-33-8-3 and IC 4-35-6.5-3, the Commission may not issue an occupational license to someone who has been convicted of a felony “under Indiana law, the laws of any other state, or the laws of the United States.”
3. Under IC 4-33-8-11 and IC 4-35-6.5-11, however, the Commission has the authority to waive the prohibition on licensing convicted felons if the applicant qualifies for a waiver under the statutory scheme and the “commission determines that the individual has demonstrated by clear and convincing evidence the individual’s rehabilitation.” This waiver provision is commonly called “felony waiver.”
4. The statutory scheme includes three types of applicants who may or may not be eligible for a felony waiver:
 - a. Applicants that are ineligible for a felony waiver under IC 4-33-811(d) and IC 4-35-6.5-11(d);
 - b. Applicants that may be eligible for a felony waiver under 4-33-8-11(e) and IC 4-35-6.5-11(e) after the passage of ten (10) years since the individual was discharged from probation, imprisonment, or parole, whichever is latest; and
 - c. Applicants that may be eligible for a felony waiver under IC 4-35-8-11(f) and IC 4-35-6.5-11(f) after the passage of five (5) years since the individual was discharged from probation, imprisonment, or parole, whichever is latest.
5. In some cases, an applicant will have submitted an application for a felony waiver, passed the initial qualification, proceeded to a hearing with Commission staff, and be found by staff to be fully rehabilitated, but because the next Commission meeting at which the Commission could consider granting the felony waiver request is many weeks or months away, the applicant will lose their job offer prior to obtaining a waiver from the Commission.
6. Pursuant to Resolution 2009-59, adopted by the Commission on March 19, 2009, the Executive Director has the authority to grant interim approvals to felony waiver applicants who qualify under IC 4-33-8-11(f) and IC 4-35-6.5-11(f). The authority delegated by Resolution 2009-59 should be expanded to allow the Executive Director to also issue interim approvals to those felony waiver applicants who qualify under IC 4-33-8-11(e) and IC 4-35-6.5-11(e). The Commission would maintain the ultimate authority to approve or deny a felony waiver application but allow interim approvals of felony waiver applications until the Commission can consider the application.

7. The Commission finds that it is in the best interest of the gaming industry, the Commission, and the occupational license scheme to assign the Executive Director the authority to grant interim approvals to felony waiver applicants who qualify under IC 4-33-8-11 (e) or IC 4-33-6.5-11(e) and IC 4-33-8-11(f) or IC 4-35-6.5-11(f) until such time as the Commission is able to ratify or reject the interim approval.
8. This Resolution supersedes and replaces Resolutions 2009-59.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1. SCOPE.

This resolution applies to the Indiana Gaming Commission and the Executive Director of the Indiana Gaming Commission.

SECTION 2. DEFINITIONS

The definitions set forth in Ind. Code art. 4-33, Ind. Code art. 4-35, and Title 68 of the Indiana Administrative Code apply to this resolution.

SECTION 3. ASSIGNMENT OF AUTHORITY TO THE EXECUTIVE DIRECTOR

The Indiana Gaming Commission hereby assigns to the Executive Director the authority to grant interim approvals to felony waiver applicants who qualify under IC 4-33-8-11 (e) or IC 4-33-6.5-11(e) and IC 4-33-8-11(f) or IC 4-35-6.5-11(f), as described herein. All interim approvals must be brought before the Commission for ratification or rejection at the next scheduled business meeting of the Commission.

This Resolution supersedes and replaces Resolutions 2009-59.

SECTION 4. RESERVATION OF POWERS AND DUTIES BY THE COMMISSION

The Commission hereby limits the assignment of authority to the Executive Director solely to the powers described in Section 3, specifically reserving for itself ultimate authority over the felony waiver application described in Section 3 and all remaining powers and duties with respect to the granting of felony waivers under IC 4-33-8-11 and IC 4-35-6.5-11.

SECTION 5. EFFECTIVE DATE.

This resolution is effective immediately.

ADOPTED, THIS 10th DAY OF JULY, 2020.

THE INDIANA GAMING COMMISSION:

ATTEST:



Michael B. McMains, Chair

Joseph Svetanoff, Secretary