



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB1196

Introduced 02/08/11, by Rep. Monique D. Davis

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9   from Ch. 122, par. 10-21.9  
105 ILCS 5/34-18.5   from Ch. 122, par. 34-18.5

Amends the School Code. In provisions requiring criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Child Murderer and Violent Offender Against Youth Database, provides that, beginning on January 1, 2012, the provisions also apply to all certified and noncertified employees of a school district who were employed by the school district prior to August 12, 2004.

LRB097 06299 NHT 46558 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 School Code is amended by changing Sections  
5 10-21.9 and 34-18.5 as follows:

6 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

7 Sec. 10-21.9. Criminal history records checks and checks of  
8 the Statewide Sex Offender Database and Statewide Child  
9 Murderer and Violent Offender Against Youth Database.

10 (a) Certified and noncertified applicants for employment  
11 with a school district, except school bus driver applicants,  
12 are required as a condition of employment to authorize a  
13 fingerprint-based criminal history records check to determine  
14 if such applicants have been convicted of any of the enumerated  
15 criminal or drug offenses in subsection (c) of this Section or  
16 have been convicted, within 7 years of the application for  
17 employment with the school district, of any other felony under  
18 the laws of this State or of any offense committed or attempted  
19 in any other state or against the laws of the United States  
20 that, if committed or attempted in this State, would have been  
21 punishable as a felony under the laws of this State.  
22 Authorization for the check shall be furnished by the applicant  
23 to the school district, except that if the applicant is a

1 substitute teacher seeking employment in more than one school  
2 district, a teacher seeking concurrent part-time employment  
3 positions with more than one school district (as a reading  
4 specialist, special education teacher or otherwise), or an  
5 educational support personnel employee seeking employment  
6 positions with more than one district, any such district may  
7 require the applicant to furnish authorization for the check to  
8 the regional superintendent of the educational service region  
9 in which are located the school districts in which the  
10 applicant is seeking employment as a substitute or concurrent  
11 part-time teacher or concurrent educational support personnel  
12 employee. Upon receipt of this authorization, the school  
13 district or the appropriate regional superintendent, as the  
14 case may be, shall submit the applicant's name, sex, race, date  
15 of birth, social security number, fingerprint images, and other  
16 identifiers, as prescribed by the Department of State Police,  
17 to the Department. The regional superintendent submitting the  
18 requisite information to the Department of State Police shall  
19 promptly notify the school districts in which the applicant is  
20 seeking employment as a substitute or concurrent part-time  
21 teacher or concurrent educational support personnel employee  
22 that the check of the applicant has been requested. The  
23 Department of State Police and the Federal Bureau of  
24 Investigation shall furnish, pursuant to a fingerprint-based  
25 criminal history records check, records of convictions, until  
26 expunged, to the president of the school board for the school

1 district that requested the check, or to the regional  
2 superintendent who requested the check. The Department shall  
3 charge the school district or the appropriate regional  
4 superintendent a fee for conducting such check, which fee shall  
5 be deposited in the State Police Services Fund and shall not  
6 exceed the cost of the inquiry; and the applicant shall not be  
7 charged a fee for such check by the school district or by the  
8 regional superintendent, except that those applicants seeking  
9 employment as a substitute teacher with a school district may  
10 be charged a fee not to exceed the cost of the inquiry. Subject  
11 to appropriations for these purposes, the State Superintendent  
12 of Education shall reimburse school districts and regional  
13 superintendents for fees paid to obtain criminal history  
14 records checks under this Section.

15 (a-5) The school district or regional superintendent shall  
16 further perform a check of the Statewide Sex Offender Database,  
17 as authorized by the Sex Offender Community Notification Law,  
18 for each applicant.

19 (a-6) The school district or regional superintendent shall  
20 further perform a check of the Statewide Child Murderer and  
21 Violent Offender Against Youth Database, as authorized by the  
22 Child Murderer and Violent Offender Against Youth Community  
23 Notification Law, for each applicant.

24 (b) Any information concerning the record of convictions  
25 obtained by the president of the school board or the regional  
26 superintendent shall be confidential and may only be

1 transmitted to the superintendent of the school district or his  
2 designee, the appropriate regional superintendent if the check  
3 was requested by the school district, the presidents of the  
4 appropriate school boards if the check was requested from the  
5 Department of State Police by the regional superintendent, the  
6 State Superintendent of Education, the State Teacher  
7 Certification Board, any other person necessary to the decision  
8 of hiring the applicant for employment, or for clarification  
9 purposes the Department of State Police or Statewide Sex  
10 Offender Database, or both. A copy of the record of convictions  
11 obtained from the Department of State Police shall be provided  
12 to the applicant for employment. Upon the check of the  
13 Statewide Sex Offender Database, the school district or  
14 regional superintendent shall notify an applicant as to whether  
15 or not the applicant has been identified in the Database as a  
16 sex offender. If a check of an applicant for employment as a  
17 substitute or concurrent part-time teacher or concurrent  
18 educational support personnel employee in more than one school  
19 district was requested by the regional superintendent, and the  
20 Department of State Police upon a check ascertains that the  
21 applicant has not been convicted of any of the enumerated  
22 criminal or drug offenses in subsection (c) or has not been  
23 convicted, within 7 years of the application for employment  
24 with the school district, of any other felony under the laws of  
25 this State or of any offense committed or attempted in any  
26 other state or against the laws of the United States that, if

1 committed or attempted in this State, would have been  
2 punishable as a felony under the laws of this State and so  
3 notifies the regional superintendent and if the regional  
4 superintendent upon a check ascertains that the applicant has  
5 not been identified in the Sex Offender Database as a sex  
6 offender, then the regional superintendent shall issue to the  
7 applicant a certificate evidencing that as of the date  
8 specified by the Department of State Police the applicant has  
9 not been convicted of any of the enumerated criminal or drug  
10 offenses in subsection (c) or has not been convicted, within 7  
11 years of the application for employment with the school  
12 district, of any other felony under the laws of this State or  
13 of any offense committed or attempted in any other state or  
14 against the laws of the United States that, if committed or  
15 attempted in this State, would have been punishable as a felony  
16 under the laws of this State and evidencing that as of the date  
17 that the regional superintendent conducted a check of the  
18 Statewide Sex Offender Database, the applicant has not been  
19 identified in the Database as a sex offender. The school board  
20 of any school district may rely on the certificate issued by  
21 any regional superintendent to that substitute teacher,  
22 concurrent part-time teacher, or concurrent educational  
23 support personnel employee or may initiate its own criminal  
24 history records check of the applicant through the Department  
25 of State Police and its own check of the Statewide Sex Offender  
26 Database as provided in subsection (a). Any person who releases

1 any confidential information concerning any criminal  
2 convictions of an applicant for employment shall be guilty of a  
3 Class A misdemeanor, unless the release of such information is  
4 authorized by this Section.

5 (c) No school board shall knowingly employ a person who has  
6 been convicted of any offense that would subject him or her to  
7 certification suspension or revocation pursuant to Section  
8 21-23a of this Code. Further, no school board shall knowingly  
9 employ a person who has been found to be the perpetrator of  
10 sexual or physical abuse of any minor under 18 years of age  
11 pursuant to proceedings under Article II of the Juvenile Court  
12 Act of 1987.

13 (d) No school board shall knowingly employ a person for  
14 whom a criminal history records check and a Statewide Sex  
15 Offender Database check has not been initiated.

16 (e) Upon receipt of the record of a conviction of or a  
17 finding of child abuse by a holder of any certificate issued  
18 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School  
19 Code, the State Superintendent of Education may initiate  
20 certificate suspension and revocation proceedings as  
21 authorized by law.

22 (e-5) The superintendent of the employing school board  
23 shall, in writing, notify the State Superintendent of Education  
24 and the applicable regional superintendent of schools of any  
25 certificate holder whom he or she has reasonable cause to  
26 believe has committed an intentional act of abuse or neglect

1 with the result of making a child an abused child or a  
2 neglected child, as defined in Section 3 of the Abused and  
3 Neglected Child Reporting Act, and that act resulted in the  
4 certificate holder's dismissal or resignation from the school  
5 district. This notification must be submitted within 30 days  
6 after the dismissal or resignation. The certificate holder must  
7 also be contemporaneously sent a copy of the notice by the  
8 superintendent. All correspondence, documentation, and other  
9 information so received by the regional superintendent of  
10 schools, the State Superintendent of Education, the State Board  
11 of Education, or the State Teacher Certification Board under  
12 this subsection (e-5) is confidential and must not be disclosed  
13 to third parties, except (i) as necessary for the State  
14 Superintendent of Education or his or her designee to  
15 investigate and prosecute pursuant to Article 21 of this Code,  
16 (ii) pursuant to a court order, (iii) for disclosure to the  
17 certificate holder or his or her representative, or (iv) as  
18 otherwise provided in this Article and provided that any such  
19 information admitted into evidence in a hearing is exempt from  
20 this confidentiality and non-disclosure requirement. Except  
21 for an act of willful or wanton misconduct, any superintendent  
22 who provides notification as required in this subsection (e-5)  
23 shall have immunity from any liability, whether civil or  
24 criminal or that otherwise might result by reason of such  
25 action.

26 (f) After January 1, 1990 the provisions of this Section



1 shall apply to all employees of persons or firms holding  
2 contracts with any school district including, but not limited  
3 to, food service workers, school bus drivers and other  
4 transportation employees, who have direct, daily contact with  
5 the pupils of any school in such district. For purposes of  
6 criminal history records checks and checks of the Statewide Sex  
7 Offender Database on employees of persons or firms holding  
8 contracts with more than one school district and assigned to  
9 more than one school district, the regional superintendent of  
10 the educational service region in which the contracting school  
11 districts are located may, at the request of any such school  
12 district, be responsible for receiving the authorization for a  
13 criminal history records check prepared by each such employee  
14 and submitting the same to the Department of State Police and  
15 for conducting a check of the Statewide Sex Offender Database  
16 for each employee. Any information concerning the record of  
17 conviction and identification as a sex offender of any such  
18 employee obtained by the regional superintendent shall be  
19 promptly reported to the president of the appropriate school  
20 board or school boards.

21 (f-5) Beginning on January 1, 2012, this Section also  
22 applies to all certified and noncertified employees of a school  
23 district who were employed by the school district prior to  
24 August 12, 2004.

25 (g) In order to student teach in the public schools, a  
26 person is required to authorize a fingerprint-based criminal

1 history records check and checks of the Statewide Sex Offender  
2 Database and Statewide Child Murderer and Violent Offender  
3 Against Youth Database prior to participating in any field  
4 experiences in the public schools. Authorization for and  
5 payment of the costs of the checks must be furnished by the  
6 student teacher. Results of the checks must be furnished to the  
7 higher education institution where the student teacher is  
8 enrolled and the superintendent of the school district where  
9 the student is assigned.

10 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09;  
11 96-1452, eff. 8-20-10; 96-1489, eff. 1-1-11; revised 1-4-11.)

12 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

13 Sec. 34-18.5. Criminal history records checks and checks of  
14 the Statewide Sex Offender Database and Statewide Child  
15 Murderer and Violent Offender Against Youth Database.

16 (a) Certified and noncertified applicants for employment  
17 with the school district are required as a condition of  
18 employment to authorize a fingerprint-based criminal history  
19 records check to determine if such applicants have been  
20 convicted of any of the enumerated criminal or drug offenses in  
21 subsection (c) of this Section or have been convicted, within 7  
22 years of the application for employment with the school  
23 district, of any other felony under the laws of this State or  
24 of any offense committed or attempted in any other state or  
25 against the laws of the United States that, if committed or

1 attempted in this State, would have been punishable as a felony  
2 under the laws of this State. Authorization for the check shall  
3 be furnished by the applicant to the school district, except  
4 that if the applicant is a substitute teacher seeking  
5 employment in more than one school district, or a teacher  
6 seeking concurrent part-time employment positions with more  
7 than one school district (as a reading specialist, special  
8 education teacher or otherwise), or an educational support  
9 personnel employee seeking employment positions with more than  
10 one district, any such district may require the applicant to  
11 furnish authorization for the check to the regional  
12 superintendent of the educational service region in which are  
13 located the school districts in which the applicant is seeking  
14 employment as a substitute or concurrent part-time teacher or  
15 concurrent educational support personnel employee. Upon  
16 receipt of this authorization, the school district or the  
17 appropriate regional superintendent, as the case may be, shall  
18 submit the applicant's name, sex, race, date of birth, social  
19 security number, fingerprint images, and other identifiers, as  
20 prescribed by the Department of State Police, to the  
21 Department. The regional superintendent submitting the  
22 requisite information to the Department of State Police shall  
23 promptly notify the school districts in which the applicant is  
24 seeking employment as a substitute or concurrent part-time  
25 teacher or concurrent educational support personnel employee  
26 that the check of the applicant has been requested. The

1 Department of State Police and the Federal Bureau of  
2 Investigation shall furnish, pursuant to a fingerprint-based  
3 criminal history records check, records of convictions, until  
4 expunged, to the president of the school board for the school  
5 district that requested the check, or to the regional  
6 superintendent who requested the check. The Department shall  
7 charge the school district or the appropriate regional  
8 superintendent a fee for conducting such check, which fee shall  
9 be deposited in the State Police Services Fund and shall not  
10 exceed the cost of the inquiry; and the applicant shall not be  
11 charged a fee for such check by the school district or by the  
12 regional superintendent. Subject to appropriations for these  
13 purposes, the State Superintendent of Education shall  
14 reimburse the school district and regional superintendent for  
15 fees paid to obtain criminal history records checks under this  
16 Section.

17 (a-5) The school district or regional superintendent shall  
18 further perform a check of the Statewide Sex Offender Database,  
19 as authorized by the Sex Offender Community Notification Law,  
20 for each applicant.

21 (a-6) The school district or regional superintendent shall  
22 further perform a check of the Statewide Child Murderer and  
23 Violent Offender Against Youth Database, as authorized by the  
24 Child Murderer and Violent Offender Against Youth Community  
25 Notification Law, for each applicant.

26 (b) Any information concerning the record of convictions

1 obtained by the president of the board of education or the  
2 regional superintendent shall be confidential and may only be  
3 transmitted to the general superintendent of the school  
4 district or his designee, the appropriate regional  
5 superintendent if the check was requested by the board of  
6 education for the school district, the presidents of the  
7 appropriate board of education or school boards if the check  
8 was requested from the Department of State Police by the  
9 regional superintendent, the State Superintendent of  
10 Education, the State Teacher Certification Board or any other  
11 person necessary to the decision of hiring the applicant for  
12 employment. A copy of the record of convictions obtained from  
13 the Department of State Police shall be provided to the  
14 applicant for employment. Upon the check of the Statewide Sex  
15 Offender Database, the school district or regional  
16 superintendent shall notify an applicant as to whether or not  
17 the applicant has been identified in the Database as a sex  
18 offender. If a check of an applicant for employment as a  
19 substitute or concurrent part-time teacher or concurrent  
20 educational support personnel employee in more than one school  
21 district was requested by the regional superintendent, and the  
22 Department of State Police upon a check ascertains that the  
23 applicant has not been convicted of any of the enumerated  
24 criminal or drug offenses in subsection (c) or has not been  
25 convicted, within 7 years of the application for employment  
26 with the school district, of any other felony under the laws of

1 this State or of any offense committed or attempted in any  
2 other state or against the laws of the United States that, if  
3 committed or attempted in this State, would have been  
4 punishable as a felony under the laws of this State and so  
5 notifies the regional superintendent and if the regional  
6 superintendent upon a check ascertains that the applicant has  
7 not been identified in the Sex Offender Database as a sex  
8 offender, then the regional superintendent shall issue to the  
9 applicant a certificate evidencing that as of the date  
10 specified by the Department of State Police the applicant has  
11 not been convicted of any of the enumerated criminal or drug  
12 offenses in subsection (c) or has not been convicted, within 7  
13 years of the application for employment with the school  
14 district, of any other felony under the laws of this State or  
15 of any offense committed or attempted in any other state or  
16 against the laws of the United States that, if committed or  
17 attempted in this State, would have been punishable as a felony  
18 under the laws of this State and evidencing that as of the date  
19 that the regional superintendent conducted a check of the  
20 Statewide Sex Offender Database, the applicant has not been  
21 identified in the Database as a sex offender. The school board  
22 of any school district may rely on the certificate issued by  
23 any regional superintendent to that substitute teacher,  
24 concurrent part-time teacher, or concurrent educational  
25 support personnel employee or may initiate its own criminal  
26 history records check of the applicant through the Department

1 of State Police and its own check of the Statewide Sex Offender  
2 Database as provided in subsection (a). Any person who releases  
3 any confidential information concerning any criminal  
4 convictions of an applicant for employment shall be guilty of a  
5 Class A misdemeanor, unless the release of such information is  
6 authorized by this Section.

7 (c) The board of education shall not knowingly employ a  
8 person who has been convicted of any offense that would subject  
9 him or her to certification suspension or revocation pursuant  
10 to Section 21-23a of this Code. Further, the board of education  
11 shall not knowingly employ a person who has been found to be  
12 the perpetrator of sexual or physical abuse of any minor under  
13 18 years of age pursuant to proceedings under Article II of the  
14 Juvenile Court Act of 1987.

15 (d) The board of education shall not knowingly employ a  
16 person for whom a criminal history records check and a  
17 Statewide Sex Offender Database check has not been initiated.

18 (e) Upon receipt of the record of a conviction of or a  
19 finding of child abuse by a holder of any certificate issued  
20 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School  
21 Code, the State Superintendent of Education may initiate  
22 certificate suspension and revocation proceedings as  
23 authorized by law.

24 (e-5) The general superintendent of schools shall, in  
25 writing, notify the State Superintendent of Education of any  
26 certificate holder whom he or she has reasonable cause to

1 believe has committed an intentional act of abuse or neglect  
2 with the result of making a child an abused child or a  
3 neglected child, as defined in Section 3 of the Abused and  
4 Neglected Child Reporting Act, and that act resulted in the  
5 certificate holder's dismissal or resignation from the school  
6 district. This notification must be submitted within 30 days  
7 after the dismissal or resignation. The certificate holder must  
8 also be contemporaneously sent a copy of the notice by the  
9 superintendent. All correspondence, documentation, and other  
10 information so received by the State Superintendent of  
11 Education, the State Board of Education, or the State Teacher  
12 Certification Board under this subsection (e-5) is  
13 confidential and must not be disclosed to third parties, except  
14 (i) as necessary for the State Superintendent of Education or  
15 his or her designee to investigate and prosecute pursuant to  
16 Article 21 of this Code, (ii) pursuant to a court order, (iii)  
17 for disclosure to the certificate holder or his or her  
18 representative, or (iv) as otherwise provided in this Article  
19 and provided that any such information admitted into evidence  
20 in a hearing is exempt from this confidentiality and  
21 non-disclosure requirement. Except for an act of willful or  
22 wanton misconduct, any superintendent who provides  
23 notification as required in this subsection (e-5) shall have  
24 immunity from any liability, whether civil or criminal or that  
25 otherwise might result by reason of such action.

26 (f) After March 19, 1990, the provisions of this Section



1 shall apply to all employees of persons or firms holding  
2 contracts with any school district including, but not limited  
3 to, food service workers, school bus drivers and other  
4 transportation employees, who have direct, daily contact with  
5 the pupils of any school in such district. For purposes of  
6 criminal history records checks and checks of the Statewide Sex  
7 Offender Database on employees of persons or firms holding  
8 contracts with more than one school district and assigned to  
9 more than one school district, the regional superintendent of  
10 the educational service region in which the contracting school  
11 districts are located may, at the request of any such school  
12 district, be responsible for receiving the authorization for a  
13 criminal history records check prepared by each such employee  
14 and submitting the same to the Department of State Police and  
15 for conducting a check of the Statewide Sex Offender Database  
16 for each employee. Any information concerning the record of  
17 conviction and identification as a sex offender of any such  
18 employee obtained by the regional superintendent shall be  
19 promptly reported to the president of the appropriate school  
20 board or school boards.

21 (f-5) Beginning on January 1, 2012, this Section also  
22 applies to all certified and noncertified employees of a school  
23 district who were employed by the school district prior to  
24 August 12, 2004.

25 (g) In order to student teach in the public schools, a  
26 person is required to authorize a fingerprint-based criminal

1 history records check and checks of the Statewide Sex Offender  
2 Database and Statewide Child Murderer and Violent Offender  
3 Against Youth Database prior to participating in any field  
4 experiences in the public schools. Authorization for and  
5 payment of the costs of the checks must be furnished by the  
6 student teacher. Results of the checks must be furnished to the  
7 higher education institution where the student teacher is  
8 enrolled and the general superintendent of schools.

9 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09;  
10 96-1452, eff. 8-20-10.)