

SB1684



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1684

Introduced 2/26/2021, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9

from Ch. 122, par. 10-21.9

Amends the School Code. Adds regional offices of education to provisions that require schools and school districts to make available any information obtained pursuant to a criminal history records check or a check of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database. Removes a provision that limits the information to checks performed within the last year and to checks performed under a specified provision. Effective immediately.

LRB102 16383 CMG 21772 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 Section
5 10-21.9 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
8 of the Statewide Sex Offender Database and Statewide Murderer
9 and Violent Offender Against Youth Database.

10 (a) Licensed and nonlicensed 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 disqualifying,
15 enumerated criminal or drug offenses in subsection (c) of this
16 Section or have been convicted, within 7 years of the
17 application for employment with the school district, of any
18 other felony under the laws of this State or of any offense
19 committed or attempted in any other state or against the laws
20 of the United States that, if committed or attempted in this
21 State, would have been punishable as a felony under the laws of
22 this State. Authorization for the check shall be furnished by
23 the applicant to the school district, except that if the

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

1 forever and hereinafter, until expunged, to the president of
2 the school board for the school district that requested the
3 check, or to the regional superintendent who requested the
4 check. The Department shall charge the school district or the
5 appropriate regional superintendent a fee for conducting such
6 check, which fee shall be deposited in the State Police
7 Services Fund and shall not exceed the cost of the inquiry; and
8 the applicant shall not be charged a fee for such check by the
9 school district or by the regional superintendent, except that
10 those applicants seeking employment as a substitute teacher
11 with a school district may be charged a fee not to exceed the
12 cost of the inquiry. Subject to appropriations for these
13 purposes, the State Superintendent of Education shall
14 reimburse school districts and regional superintendents 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
19 Database, as authorized by the Sex Offender Community
20 Notification Law, for each applicant. The check of the
21 Statewide Sex Offender Database must be conducted by the
22 school district or regional superintendent once for every 5
23 years that an applicant remains employed by the school
24 district.

25 (a-6) The school district or regional superintendent shall
26 further perform a check of the Statewide Murderer and Violent

1 Offender Against Youth Database, as authorized by the Murderer
2 and Violent Offender Against Youth Community Notification Law,
3 for each applicant. The check of the Murderer and Violent
4 Offender Against Youth Database must be conducted by the
5 school district or regional superintendent once for every 5
6 years that an applicant remains employed by the school
7 district.

8 (b) Any information concerning the record of convictions
9 obtained by the president of the school board or the regional
10 superintendent shall be confidential and may only be
11 transmitted to the superintendent of the school district or
12 his designee, the appropriate regional superintendent if the
13 check was requested by the school district, the presidents of
14 the appropriate school boards if the check was requested from
15 the Department of State Police by the regional superintendent,
16 the State Board of Education and a school district as
17 authorized under subsection (b-5), the State Superintendent of
18 Education, the State Educator Preparation and Licensure Board,
19 any other person necessary to the decision of hiring the
20 applicant for employment, or for clarification purposes the
21 Department of State Police or Statewide Sex Offender Database,
22 or both. A copy of the record of convictions obtained from the
23 Department of State Police shall be provided to the applicant
24 for employment. Upon the check of the Statewide Sex Offender
25 Database or Statewide Murderer and Violent Offender Against
26 Youth Database, the school district or regional superintendent

1 shall notify an applicant as to whether or not the applicant
2 has been identified in the Database. If a check of an applicant
3 for employment as a substitute or concurrent part-time teacher
4 or concurrent educational support personnel employee in more
5 than one school district was requested by the regional
6 superintendent, and the Department of State Police upon a
7 check ascertains that the applicant has not been convicted of
8 any of the enumerated criminal or drug offenses in subsection
9 (c) of this Section or has not been convicted, within 7 years
10 of the application for employment with the school district, of
11 any other felony under the laws of this State or of any offense
12 committed or attempted in any other state or against the laws
13 of the United States that, if committed or attempted in this
14 State, would have been punishable as a felony under the laws of
15 this State and so notifies the regional superintendent and if
16 the regional superintendent upon a check ascertains that the
17 applicant has not been identified in the Sex Offender Database
18 or Statewide Murderer and Violent Offender Against Youth
19 Database, then the regional superintendent shall issue to the
20 applicant a certificate evidencing that as of the date
21 specified by the Department of State Police the applicant has
22 not been convicted of any of the enumerated criminal or drug
23 offenses in subsection (c) of this Section or has not been
24 convicted, within 7 years of the application for employment
25 with the school district, of any other felony under the laws of
26 this State or of any offense committed or attempted in any

1 other state or against the laws of the United States that, if
2 committed or attempted in this State, would have been
3 punishable as a felony under the laws of this State and
4 evidencing that as of the date that the regional
5 superintendent conducted a check of the Statewide Sex Offender
6 Database or Statewide Murderer and Violent Offender Against
7 Youth Database, the applicant has not been identified in the
8 Database. The school board of any school district may rely on
9 the certificate issued by any regional superintendent to that
10 substitute teacher, concurrent part-time teacher, or
11 concurrent educational support personnel employee or may
12 initiate its own criminal history records check of the
13 applicant through the Department of State Police and its own
14 check of the Statewide Sex Offender Database or Statewide
15 Murderer and Violent Offender Against Youth Database as
16 provided in this Section. Any unauthorized release of
17 confidential information may be a violation of Section 7 of
18 the Criminal Identification Act.

19 (b-5) If a criminal history records check or check of the
20 Statewide Sex Offender Database or Statewide Murderer and
21 Violent Offender Against Youth Database is performed by a
22 regional superintendent for an applicant seeking employment as
23 a substitute teacher with a school district, the regional
24 superintendent may disclose to the State Board of Education
25 whether the applicant has been issued a certificate under
26 subsection (b) based on those checks. If the State Board

1 receives information on an applicant under this subsection,
2 then it must indicate in the Educator Licensure Information
3 System for a 90-day period that the applicant has been issued
4 or has not been issued a certificate.

5 (c) No school board shall knowingly employ a person who
6 has been convicted of any offense that would subject him or her
7 to license suspension or revocation pursuant to Section 21B-80
8 of this Code, except as provided under subsection (b) of
9 Section 21B-80. Further, no school board shall knowingly
10 employ a person who has been found to be the perpetrator of
11 sexual or physical abuse of any minor under 18 years of age
12 pursuant to proceedings under Article II of the Juvenile Court
13 Act of 1987. As a condition of employment, each school board
14 must consider the status of a person who has been issued an
15 indicated finding of abuse or neglect of a child by the
16 Department of Children and Family Services under the Abused
17 and Neglected Child Reporting Act or by a child welfare agency
18 of another jurisdiction.

19 (d) No school board shall knowingly employ a person for
20 whom a criminal history records check and a Statewide Sex
21 Offender Database check have not been initiated.

22 (e) Within 10 days after a superintendent, regional office
23 of education, or entity that provides background checks of
24 license holders to public schools receives information of a
25 pending criminal charge against a license holder for an
26 offense set forth in Section 21B-80 of this Code, the

1 superintendent, regional office of education, or entity must
2 notify the State Superintendent of Education of the pending
3 criminal charge.

4 If permissible by federal or State law, no later than 15
5 business days after receipt of a record of conviction or of
6 checking the Statewide Murderer and Violent Offender Against
7 Youth Database or the Statewide Sex Offender Database and
8 finding a registration, the superintendent of the employing
9 school board or the applicable regional superintendent shall,
10 in writing, notify the State Superintendent of Education of
11 any license holder who has been convicted of a crime set forth
12 in Section 21B-80 of this Code. Upon receipt of the record of a
13 conviction of or a finding of child abuse by a holder of any
14 license issued pursuant to Article 21B or Section 34-8.1 or
15 34-83 of the School Code, the State Superintendent of
16 Education may initiate licensure suspension and revocation
17 proceedings as authorized by law. If the receipt of the record
18 of conviction or finding of child abuse is received within 6
19 months after the initial grant of or renewal of a license, the
20 State Superintendent of Education may rescind the license
21 holder's license.

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

1 neglect 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 license 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 license 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
11 Board of Education, or the State Educator Preparation and
12 Licensure Board under this subsection (e-5) is confidential
13 and must not be disclosed to third parties, except (i) as
14 necessary for the State Superintendent of Education or his or
15 her designee to investigate and prosecute pursuant to Article
16 21B of this Code, (ii) pursuant to a court order, (iii) for
17 disclosure to the license holder or his or her representative,
18 or (iv) as otherwise provided in this Article and provided
19 that any such information admitted into evidence in a hearing
20 is exempt from this confidentiality and non-disclosure
21 requirement. Except for an act of willful or wanton
22 misconduct, any superintendent who provides notification as
23 required in this subsection (e-5) shall have immunity from any
24 liability, whether civil or criminal or that otherwise might
25 result by reason of such 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
7 Sex 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) Upon request of a school, ~~or~~ school district, or
22 regional office of education, any information obtained by a
23 school district or regional office of education pursuant to
24 ~~subsection (f) of this Section within the last year~~ must be
25 made available to the requesting school, ~~or~~ school district,
26 or regional office of education.

1 (g) Prior to the commencement of any student teaching
2 experience or required internship (which is referred to as
3 student teaching in this Section) in the public schools, a
4 student teacher is required to authorize a fingerprint-based
5 criminal history records check. Authorization for and payment
6 of the costs of the check must be furnished by the student
7 teacher to the school district where the student teaching is
8 to be completed. Upon receipt of this authorization and
9 payment, the school district shall submit the student
10 teacher's name, sex, race, date of birth, social security
11 number, fingerprint images, and other identifiers, as
12 prescribed by the Department of State Police, to the
13 Department of State Police. The Department of State Police and
14 the Federal Bureau of Investigation shall furnish, pursuant to
15 a fingerprint-based criminal history records check, records of
16 convictions, forever and hereinafter, until expunged, to the
17 president of the school board for the school district that
18 requested the check. The Department shall charge the school
19 district a fee for conducting the check, which fee must not
20 exceed the cost of the inquiry and must be deposited into the
21 State Police Services Fund. The school district shall further
22 perform a check of the Statewide Sex Offender Database, as
23 authorized by the Sex Offender Community Notification Law, and
24 of the Statewide Murderer and Violent Offender Against Youth
25 Database, as authorized by the Murderer and Violent Offender
26 Against Youth Registration Act, for each student teacher. No

1 school board may knowingly allow a person to student teach for
2 whom a criminal history records check, a Statewide Sex
3 Offender Database check, and a Statewide Murderer and Violent
4 Offender Against Youth Database check have not been completed
5 and reviewed by the district.

6 A copy of the record of convictions obtained from the
7 Department of State Police must be provided to the student
8 teacher. Any information concerning the record of convictions
9 obtained by the president of the school board is confidential
10 and may only be transmitted to the superintendent of the
11 school district or his or her designee, the State
12 Superintendent of Education, the State Educator Preparation
13 and Licensure Board, or, for clarification purposes, the
14 Department of State Police or the Statewide Sex Offender
15 Database or Statewide Murderer and Violent Offender Against
16 Youth Database. Any unauthorized release of confidential
17 information may be a violation of Section 7 of the Criminal
18 Identification Act.

19 No school board shall knowingly allow a person to student
20 teach who has been convicted of any offense that would subject
21 him or her to license suspension or revocation pursuant to
22 subsection (c) of Section 21B-80 of this Code, except as
23 provided under subsection (b) of Section 21B-80. Further, no
24 school board shall allow a person to student teach if he or she
25 has been found to be the perpetrator of sexual or physical
26 abuse of a minor under 18 years of age pursuant to proceedings

1 under Article II of the Juvenile Court Act of 1987. Each school
2 board must consider the status of a person to student teach who
3 has been issued an indicated finding of abuse or neglect of a
4 child by the Department of Children and Family Services under
5 the Abused and Neglected Child Reporting Act or by a child
6 welfare agency of another jurisdiction.

7 (h) (Blank).

8 (Source: P.A. 101-72, eff. 7-12-19; 101-531, eff. 8-23-19;
9 101-643, eff. 6-18-20.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.