



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB3977

Introduced 12/30/2003, by Careen Gordon - John A. Fritchey -
William Davis - Kenneth Dunkin, Steve Davis, et al.

SYNOPSIS AS INTRODUCED:

20 ILCS 2605/2605-325
105 ILCS 5/10-21.9
105 ILCS 5/34-18.5
30 ILCS 805/8.28 new

was 20 ILCS 2605/55a in part
from Ch. 122, par. 10-21.9
from Ch. 122, par. 34-18.5

Amends the School Code and the Department of State Police Law of the Civil Administrative Code of Illinois. In provisions requiring an applicant for employment with a school district to undergo a criminal background investigation, requires that the Federal Bureau of Investigation criminal history records database be searched (now requires only the Illinois criminal history records database to be searched). Makes related changes. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB093 14762 LRD 40311 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning schools.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of State Police Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2605-325 as follows:

7 (20 ILCS 2605/2605-325) (was 20 ILCS 2605/55a in part)

8 Sec. 2605-325. Conviction information for school board or
9 regional superintendent. On request of a school board or
10 regional superintendent of schools, to conduct an
11 investigation inquiry pursuant to Section 10-21.9 or 34-18.5 of
12 the School Code to ascertain whether an applicant for
13 employment in a school district has been convicted of
14 committing or attempting to commit a ~~of any~~ criminal or drug
15 offense specified ~~offenses enumerated~~ in Section 10-21.9 or
16 34-18.5 of the School Code. The Department shall furnish the
17 conviction information to the president of the school board of
18 the school district that has requested the information or, if
19 the information was requested by the regional superintendent,
20 to that regional superintendent.

21 (Source: P.A. 90-18, eff. 7-1-97; 90-130, eff. 1-1-98; 90-372,
22 eff. 7-1-98; 90-590, eff. 1-1-00; 90-655, eff. 7-30-98; 90-793,
23 eff. 8-14-98; 91-239, eff. 1-1-00.)

24 Section 10. The School Code is amended by changing Sections
25 10-21.9 and 34-18.5 as follows:

26 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

27 Sec. 10-21.9. Criminal background investigations.

28 (a) After August 1, 1985, certified and noncertified
29 applicants for employment with a school district, except school
30 bus driver applicants, are required as a condition of

1 employment to authorize an investigation to determine if such
2 applicants have been convicted of any of the enumerated
3 criminal or drug offenses in subsection (c) of this Section or
4 have been convicted, within 7 years of the application for
5 employment with the school district, of any other felony under
6 the laws of this State or of any offense committed or attempted
7 in any other state or against the laws of the United States
8 that, if committed or attempted in this State, would have been
9 punishable as a felony under the laws of this State.
10 Authorization for the investigation shall be furnished by the
11 applicant to the school district, except that if the applicant
12 is a substitute teacher seeking employment in more than one
13 school district, a teacher seeking concurrent part-time
14 employment positions with more than one school district (as a
15 reading specialist, special education teacher or otherwise),
16 or an educational support personnel employee seeking
17 employment positions with more than one district, any such
18 district may require the applicant to furnish authorization for
19 the investigation to the regional superintendent of the
20 educational service region in which are located the school
21 districts in which the applicant is seeking employment as a
22 substitute or concurrent part-time teacher or concurrent
23 educational support personnel employee. Upon receipt of this
24 authorization, the school district or the appropriate regional
25 superintendent, as the case may be, shall submit the
26 applicant's name, sex, race, date of birth and social security
27 number to the Department of State Police on forms prescribed by
28 the Department. The regional superintendent submitting the
29 requisite information to the Department of State Police shall
30 promptly notify the school districts in which the applicant is
31 seeking employment as a substitute or concurrent part-time
32 teacher or concurrent educational support personnel employee
33 that the investigation of the applicant has been requested. The
34 Department of State Police shall conduct a search of the
35 Illinois criminal history records database and have a search of
36 the Federal Bureau of Investigation criminal history records

1 database conducted to ascertain if the applicant being
2 considered for employment has been convicted of committing or
3 attempting to commit any of the enumerated criminal or drug
4 offenses in subsection (c) or has been convicted of committing
5 or attempting to commit, within 7 years of the application for
6 employment with the school district, any other felony under the
7 laws of this State or ~~of~~ any offense committed or attempted in
8 any other state or against the laws of the United States that,
9 if committed or attempted in this State, would have been
10 punishable as a felony under the laws of this State. The
11 Department shall charge the school district or the appropriate
12 regional superintendent a fee for conducting such
13 investigation, which fee shall be deposited in the State Police
14 Services Fund and shall not exceed the cost of the
15 investigation inquiry; and the applicant shall not be charged a
16 fee for such investigation by the school district or by the
17 regional superintendent. The regional superintendent may seek
18 reimbursement from the State Board of Education or the
19 appropriate school district or districts for fees paid by the
20 regional superintendent to the Department for the criminal
21 background investigations required by this Section.

22 (b) If the search of the Illinois and Federal Bureau of
23 Investigation criminal history records databases ~~database~~
24 indicates that the applicant has been convicted of committing
25 or attempting to commit any of the enumerated criminal or drug
26 offenses in subsection (c) or has been convicted of committing
27 or attempting to commit, within 7 years before the application
28 for employment with the school district, any other felony under
29 the laws of this State, the Department and the Federal Bureau
30 of Investigation shall furnish, pursuant to a fingerprint based
31 background check, records of convictions, until expunged, to
32 the president of the school board for the school district which
33 requested the investigation, or to the regional superintendent
34 who requested the investigation. Any information concerning
35 the record of convictions obtained by the president of the
36 school board or the regional superintendent shall be

1 confidential and may only be transmitted to the superintendent
2 of the school district or his designee, the appropriate
3 regional superintendent if the investigation was requested by
4 the school district, the presidents of the appropriate school
5 boards if the investigation was requested from the Department
6 of State Police by the regional superintendent, the State
7 Superintendent of Education, the State Teacher Certification
8 Board or any other person necessary to the decision of hiring
9 the applicant for employment. A copy of the record of
10 convictions obtained from the Department of State Police or
11 Federal Bureau of Investigation shall be provided to the
12 applicant for employment. If an investigation of an applicant
13 for employment as a substitute or concurrent part-time teacher
14 or concurrent educational support personnel employee in more
15 than one school district was requested by the regional
16 superintendent, and the Department of State Police upon
17 investigation ascertains that the applicant has not been
18 convicted of any of the enumerated criminal or drug offenses in
19 subsection (c) or has not been convicted, within 7 years of the
20 application for employment with the school district, of any
21 other felony under the laws of this State or of any offense
22 committed or attempted in any other state or against the laws
23 of the United States that, if committed or attempted in this
24 State, would have been punishable as a felony under the laws of
25 this State and so notifies the regional superintendent, then
26 the regional superintendent shall issue to the applicant a
27 certificate evidencing that as of the date specified by the
28 Department of State Police the applicant has not been convicted
29 of any of the enumerated criminal or drug offenses in
30 subsection (c) or has not been convicted, within 7 years of the
31 application for employment with the school district, of any
32 other felony under the laws of this State or of any offense
33 committed or attempted in any other state or against the laws
34 of the United States that, if committed or attempted in this
35 State, would have been punishable as a felony under the laws of
36 this State. The school board of any school district located in

1 the educational service region served by the regional
2 superintendent who issues such a certificate to an applicant
3 for employment as a substitute teacher in more than one such
4 district may rely on the certificate issued by the regional
5 superintendent to that applicant, or may initiate its own
6 investigation of the applicant through the Department of State
7 Police as provided in subsection (a). Any person who releases
8 any confidential information concerning any criminal
9 convictions of an applicant for employment shall be guilty of a
10 Class A misdemeanor, unless the release of such information is
11 authorized by this Section.

12 (c) No school board shall knowingly employ a person who has
13 been convicted for committing attempted first degree murder or
14 for committing or attempting to commit first degree murder or a
15 Class X felony or any one or more of the following offenses:
16 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,
17 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,
18 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the
19 "Criminal Code of 1961"; (ii) those defined in the "Cannabis
20 Control Act" except those defined in Sections 4(a), 4(b) and
21 5(a) of that Act; (iii) those defined in the "Illinois
22 Controlled Substances Act"; and (iv) any offense committed or
23 attempted in any other state or against the laws of the United
24 States, which if committed or attempted in this State, would
25 have been punishable as one or more of the foregoing offenses.
26 Further, no school board shall knowingly employ a person who
27 has been found to be the perpetrator of sexual or physical
28 abuse of any minor under 18 years of age pursuant to
29 proceedings under Article II of the Juvenile Court Act of 1987.

30 (d) No school board shall knowingly employ a person for
31 whom a criminal background investigation has not been
32 initiated.

33 (e) Upon receipt of the record of a conviction of or a
34 finding of child abuse by a holder of any certificate issued
35 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
36 Code, the appropriate regional superintendent of schools or the

1 State Superintendent of Education shall initiate the
2 certificate suspension and revocation proceedings authorized
3 by law.

4 (f) After January 1, 1990 the provisions of this Section
5 shall apply to all employees of persons or firms holding
6 contracts with any school district including, but not limited
7 to, food service workers, school bus drivers and other
8 transportation employees, who have direct, daily contact with
9 the pupils of any school in such district. For purposes of
10 criminal background investigations on employees of persons or
11 firms holding contracts with more than one school district and
12 assigned to more than one school district, the regional
13 superintendent of the educational service region in which the
14 contracting school districts are located may, at the request of
15 any such school district, be responsible for receiving the
16 authorization for investigation prepared by each such employee
17 and submitting the same to the Department of State Police. Any
18 information concerning the record of conviction of any such
19 employee obtained by the regional superintendent shall be
20 promptly reported to the president of the appropriate school
21 board or school boards.

22 (Source: P.A. 93-418, eff. 1-1-04.)

23 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

24 Sec. 34-18.5. Criminal background investigations.

25 (a) After August 1, 1985, certified and noncertified
26 applicants for employment with the school district are required
27 as a condition of employment to authorize an investigation to
28 determine if such applicants have been convicted of any of the
29 enumerated criminal or drug offenses in subsection (c) of this
30 Section or have been convicted, within 7 years of the
31 application for employment with the school district, of any
32 other felony under the laws of this State or of any offense
33 committed or attempted in any other state or against the laws
34 of the United States that, if committed or attempted in this
35 State, would have been punishable as a felony under the laws of

1 this State. Authorization for the investigation shall be
2 furnished by the applicant to the school district, except that
3 if the applicant is a substitute teacher seeking employment in
4 more than one school district, or a teacher seeking concurrent
5 part-time employment positions with more than one school
6 district (as a reading specialist, special education teacher or
7 otherwise), or an educational support personnel employee
8 seeking employment positions with more than one district, any
9 such district may require the applicant to furnish
10 authorization for the investigation to the regional
11 superintendent of the educational service region in which are
12 located the school districts in which the applicant is seeking
13 employment as a substitute or concurrent part-time teacher or
14 concurrent educational support personnel employee. Upon
15 receipt of this authorization, the school district or the
16 appropriate regional superintendent, as the case may be, shall
17 submit the applicant's name, sex, race, date of birth and
18 social security number to the Department of State Police on
19 forms prescribed by the Department. The regional
20 superintendent submitting the requisite information to the
21 Department of State Police shall promptly notify the school
22 districts in which the applicant is seeking employment as a
23 substitute or concurrent part-time teacher or concurrent
24 educational support personnel employee that the investigation
25 of the applicant has been requested. The Department of State
26 Police shall conduct a search of the Illinois criminal history
27 record ~~information~~ database and have a search of the Federal
28 Bureau of Investigation criminal history records database
29 conducted to ascertain if the applicant being considered for
30 employment has been convicted of committing or attempting to
31 commit any of the enumerated criminal or drug offenses in
32 subsection (c) or has been convicted of committing or
33 attempting to commit, within 7 years of the application for
34 employment with the school district, any other felony under the
35 laws of this State or any offense committed or attempted in any
36 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. The
3 Department shall charge the school district or the appropriate
4 regional superintendent a fee for conducting such
5 investigation, which fee shall be deposited in the State Police
6 Services Fund and shall not exceed the cost of the
7 investigation inquiry; and the applicant shall not be charged a
8 fee for such investigation by the school district or by the
9 regional superintendent. The regional superintendent may seek
10 reimbursement from the State Board of Education or the
11 appropriate school district or districts for fees paid by the
12 regional superintendent to the Department for the criminal
13 background investigations required by this Section.

14 (b) If the search of the Illinois and Federal Bureau of
15 Investigation criminal history records databases ~~database~~
16 indicates that the applicant has been convicted of committing
17 or attempting to commit any of the enumerated criminal or drug
18 offenses in subsection (c) or has been convicted of committing
19 or attempting to commit, within 7 years of the application for
20 employment with the school district, any other felony under the
21 laws of this State, the Department and the Federal Bureau of
22 Investigation shall furnish, pursuant to a fingerprint based
23 background check, records of convictions, until expunged, to
24 the president of the board of education for the school district
25 which requested the investigation, or to the regional
26 superintendent who requested the investigation. Any
27 information concerning the record of convictions obtained by
28 the president of the board of education or the regional
29 superintendent shall be confidential and may only be
30 transmitted to the general superintendent of the school
31 district or his designee, the appropriate regional
32 superintendent if the investigation was requested by the board
33 of education for the school district, the presidents of the
34 appropriate board of education or school boards if the
35 investigation was requested from the Department of State Police
36 by the regional superintendent, the State Superintendent of

1 Education, the State Teacher Certification Board or any other
2 person necessary to the decision of hiring the applicant for
3 employment. A copy of the record of convictions obtained from
4 the Department of State Police or Federal Bureau of
5 Investigation shall be provided to the applicant for
6 employment. If an investigation of an applicant for employment
7 as a substitute or concurrent part-time teacher or concurrent
8 educational support personnel employee in more than one school
9 district was requested by the regional superintendent, and the
10 Department of State Police upon investigation ascertains that
11 the applicant has not been convicted of any of the enumerated
12 criminal or drug offenses in subsection (c) or has not been
13 convicted, within 7 years of the application for employment
14 with the school district, of any other felony under the laws of
15 this State or of any offense committed or attempted in any
16 other state or against the laws of the United States that, if
17 committed or attempted in this State, would have been
18 punishable as a felony under the laws of this State and so
19 notifies the regional superintendent, then the regional
20 superintendent shall issue to the applicant a certificate
21 evidencing that as of the date specified by the Department of
22 State Police the applicant has not been convicted of any of the
23 enumerated criminal or drug offenses in subsection (c) or has
24 not been convicted, within 7 years of the application for
25 employment with the school district, of any other felony under
26 the laws of this State or of any offense committed or attempted
27 in any other state or against the laws of the United States
28 that, if committed or attempted in this State, would have been
29 punishable as a felony under the laws of this State. The school
30 board of any school district located in the educational service
31 region served by the regional superintendent who issues such a
32 certificate to an applicant for employment as a substitute or
33 concurrent part-time teacher or concurrent educational support
34 personnel employee in more than one such district may rely on
35 the certificate issued by the regional superintendent to that
36 applicant, or may initiate its own investigation of the

1 applicant through the Department of State Police as provided in
2 subsection (a). Any person who releases any confidential
3 information concerning any criminal convictions of an
4 applicant for employment shall be guilty of a Class A
5 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 for committing attempted first
9 degree murder or for committing or attempting to commit first
10 degree murder or a Class X felony or any one or more of the
11 following offenses: (i) those defined in Sections 11-6, 11-9,
12 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,
13 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15
14 and 12-16 of the Criminal Code of 1961; (ii) those defined in
15 the Cannabis Control Act, except those defined in Sections
16 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the
17 Illinois Controlled Substances Act; and (iv) any offense
18 committed or attempted in any other state or against the laws
19 of the United States, which if committed or attempted in this
20 State, would have been punishable as one or more of the
21 foregoing offenses. Further, the board of education shall not
22 knowingly employ a person who has been found to be the
23 perpetrator of sexual or physical abuse of any minor under 18
24 years of age pursuant to proceedings under Article II of the
25 Juvenile Court Act of 1987.

26 (d) The board of education shall not knowingly employ a
27 person for whom a criminal background investigation has not
28 been initiated.

29 (e) Upon receipt of the record of a conviction of or a
30 finding of child abuse by a holder of any certificate issued
31 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
32 Code, the board of education or the State Superintendent of
33 Education shall initiate the certificate suspension and
34 revocation proceedings authorized by law.

35 (f) After March 19, 1990, the provisions of this Section
36 shall apply to all employees of persons or firms holding

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

17 (Source: P.A. 93-418, eff. 1-1-04.)

18 Section 90. The State Mandates Act is amended by adding
19 Section 8.28 as follows:

20 (30 ILCS 805/8.28 new)

21 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and
22 8 of this Act, no reimbursement by the State is required for
23 the implementation of any mandate created by this amendatory
24 Act of the 93rd General Assembly.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.