



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5188

by Rep. Sandra M. Pihos

SYNOPSIS AS INTRODUCED:

105 ILCS 10/2	from Ch. 122, par. 50-2
105 ILCS 10/5	from Ch. 122, par. 50-5
105 ILCS 10/5.5 new	
30 ILCS 805/8.32 new	

Amends the Illinois School Student Records Act. Provides that a confidential communication made by a student 12 years of age or older or by a parent or a guardian of a student who is 12 years of age or older must not be disclosed without the voluntary written consent of the person who originally disclosed the information. Provides that a confidential communication made by a student under the age of 12 years may be disclosed to the parent or guardian of the student. Sets forth requirements concerning the consent. Provides that a confidential communication must not become part of the school student record without express written consent. Sets forth the circumstances under which a confidential communication may be disclosed without voluntary written consent. Provides that any person participating in good faith in the making of a report under the Abused and Neglected Child Reporting Act or in the disclosure of information contained in a confidential communication under the Illinois School Student Records Act shall have immunity from liability, civil, criminal, or otherwise, that might result by reason of such action, except in cases of willful or wanton misconduct. Makes related changes. Amends the State Mandates Act to require implementation without reimbursement.

LRB095 15561 NHT 41560 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 Illinois School Student Records Act is
5 amended by changing Sections 2 and 5 and by adding Section 5.5
6 as follows:

7 (105 ILCS 10/2) (from Ch. 122, par. 50-2)

8 Sec. 2. As used in this Act,

9 (a) "Student" means any person enrolled or previously
10 enrolled in a school.

11 (b) "School" means any public preschool, day care center,
12 kindergarten, nursery, elementary or secondary educational
13 institution, vocational school, special educational facility
14 or any other elementary or secondary educational agency or
15 institution and any person, agency or institution which
16 maintains school student records from more than one school, but
17 does not include a private or non-public school.

18 (c) "State Board" means the State Board of Education.

19 (d) "School Student Record" means any writing or other
20 recorded information concerning a student and by which a
21 student may be individually identified, maintained by a school
22 or at its direction or by an employee of a school, regardless
23 of how or where the information is stored. The following shall

1 not be deemed school student records under this Act: writings
2 or other recorded information maintained by an employee of a
3 school or other person at the direction of a school for his or
4 her exclusive use; provided that all such writings and other
5 recorded information are destroyed not later than the student's
6 graduation or permanent withdrawal from the school; and
7 provided further that no such records or recorded information
8 may be released or disclosed to any person except a person
9 designated by the school as a substitute unless they are first
10 incorporated in a school student record and made subject to all
11 of the provisions of this Act. Except as otherwise provided in
12 this Act, school ~~School~~ student records shall not include a
13 confidential communication or information maintained by law
14 enforcement professionals working in the school.

15 (e) "Student Permanent Record" means the minimum personal
16 information necessary to a school in the education of the
17 student and contained in a school student record. Such
18 information may include the student's name, birth date,
19 address, grades and grade level, parents' names and addresses,
20 attendance records, and such other entries as the State Board
21 may require or authorize.

22 (f) "Student Temporary Record" means all information
23 contained in a school student record but not contained in the
24 student permanent record. Such information may include family
25 background information, intelligence test scores, aptitude
26 test scores, psychological and personality test results,

1 teacher evaluations, and other information of clear relevance
2 to the education of the student, all subject to regulations of
3 the State Board. The information shall include information
4 provided under Section 8.6 of the Abused and Neglected Child
5 Reporting Act. In addition, the student temporary record shall
6 include information regarding serious disciplinary infractions
7 that resulted in expulsion, suspension, or the imposition of
8 punishment or sanction. For purposes of this provision, serious
9 disciplinary infractions means: infractions involving drugs,
10 weapons, or bodily harm to another.

11 (g) "Parent" means a person who is the natural parent of
12 the student or other person who has the primary responsibility
13 for the care and upbringing of the student. All rights and
14 privileges accorded to a parent under this Act shall become
15 exclusively those of the student upon his 18th birthday,
16 graduation from secondary school, marriage or entry into
17 military service, whichever occurs first. Such rights and
18 privileges may also be exercised by the student at any time
19 with respect to the student's permanent school record.

20 (h) "Confidential Communication" means the following:

21 (1) a communication otherwise protected by law as
22 privileged or confidential, including, but not limited to,
23 information communicated in confidence to a physician,
24 psychologist, or other psychotherapist;

25 (2) information communicated by a student or by a
26 parent or guardian of a student in confidence to a school

1 social worker, a school counselor, a school psychologist,
2 or an intern working under the direct supervision of a
3 school social worker, school counselor, or school
4 psychologist or to other school personnel;

5 (3) information communicated by a student or by a
6 parent or guardian of a student to a law enforcement
7 professional working in the school, except as provided by
8 court order; or

9 (4) information communicated to a school social
10 worker, school psychologist, or school counselor or to an
11 intern under the direct supervision of a school social
12 worker, school psychologist, or school counselor that is so
13 personal or sensitive in nature that it is presumed to have
14 been given in confidence because its disclosure may clearly
15 put the student at imminent risk of serious physical or
16 emotional harm.

17 (Source: P.A. 92-295, eff. 1-1-02.)

18 (105 ILCS 10/5) (from Ch. 122, par. 50-5)

19 Sec. 5. (a) A parent or any person specifically designated
20 as a representative by a parent shall have the right to inspect
21 and copy all school student permanent and temporary records of
22 that parent's child. A student shall have the right to inspect
23 and copy his or her school student permanent record. No person
24 who is prohibited by an order of protection from inspecting or
25 obtaining school records of a student pursuant to the Illinois

1 Domestic Violence Act of 1986, as now or hereafter amended,
2 shall have any right of access to, or inspection of, the school
3 records of that student. If a school's principal or person with
4 like responsibilities or his designee has knowledge of such
5 order of protection, the school shall prohibit access or
6 inspection of the student's school records by such person.

7 (b) Whenever access to any person is granted pursuant to
8 paragraph (a) of this Section, at the option of either the
9 parent or the school a qualified professional, who may be a
10 psychologist, counsellor or other advisor, and who may be an
11 employee of the school or employed by the parent, may be
12 present to interpret the information contained in the student
13 temporary record. If the school requires that a professional be
14 present, the school shall secure and bear any cost of the
15 presence of the professional. If the parent so requests, the
16 school shall secure and bear any cost of the presence of a
17 professional employed by the school.

18 (c) A parent's or student's request to inspect and copy
19 records, or to allow a specifically designated representative
20 to inspect and copy records, must be granted within a
21 reasonable time, and in no case later than 15 school days after
22 the date of receipt of such request by the official records
23 custodian.

24 (d) The school may charge its reasonable costs for the
25 copying of school student records, not to exceed the amounts
26 fixed in schedules adopted by the State Board, to any person

1 permitted to copy such records, except that no parent or
2 student shall be denied a copy of school student records as
3 permitted under this Section 5 for inability to bear the cost
4 of such copying.

5 (e) Nothing contained in this Section 5 shall make
6 available to a parent or student confidential letters and
7 statements of recommendation furnished in connection with
8 applications for employment to a post-secondary educational
9 institution or the receipt of an honor or honorary recognition,
10 provided such letters and statements are not used for purposes
11 other than those for which they were specifically intended, and

12 (1) were placed in a school student record prior to
13 January 1, 1975; or

14 (2) the student has waived access thereto after being
15 advised of his right to obtain upon request the names of
16 all such persons making such confidential recommendations.

17 (f) (Blank). ~~Nothing contained in this Act shall be~~
18 ~~construed to impair or limit the confidentiality of:~~

19 ~~(1) Communications otherwise protected by law as~~
20 ~~privileged or confidential, including but not limited to,~~
21 ~~information communicated in confidence to a physician,~~
22 ~~psychologist or other psychotherapist; or~~

23 ~~(2) Information which is communicated by a student or~~
24 ~~parent in confidence to school personnel; or~~

25 ~~(3) Information which is communicated by a student,~~
26 ~~parent, or guardian to a law enforcement professional~~

1 ~~working in the school, except as provided by court order.~~

2 (Source: P.A. 90-590, eff. 1-1-00.)

3 (105 ILCS 10/5.5 new)

4 Sec. 5.5. Confidentiality.

5 (a) A confidential communication made by a student 12 years
6 of age or older or by a parent or a guardian of a student who is
7 12 years of age or older must not be disclosed without the
8 voluntary written consent of the person who originally
9 disclosed the information. A confidential communication made
10 by a student under the age of 12 years may be disclosed to the
11 parent or guardian of the student. The consent shall state the
12 scope of the permissible disclosure and must be signed by the
13 person granting the consent, dated, and witnessed. A
14 confidential communication must not become part of the school
15 student record without the express written consent of the
16 person who originally disclosed the information or, in the case
17 of a student under the age of 12 years, by express written
18 consent of the parent or guardian of the student.

19 (b) A confidential communication may be disclosed without
20 voluntary written consent, notwithstanding subsection (a) of
21 this Section, only as follows:

22 (1) In discussion with a therapist, a health care
23 provider, or school service personnel for the sole purpose
24 of and to the extent necessary for referring the student
25 for treatment or services.

1 (2) In accordance with the provisions of the Abused and
2 Neglected Child Reporting Act.

3 (3) When disclosure is necessary to avert a clear
4 imminent risk of serious physical or mental injury,
5 disease, or death upon the person who originally disclosed
6 the information, upon other persons in the school community
7 (including administrators, teachers, other school
8 personnel, parents, and students), or upon other persons,
9 information may be disclosed to law enforcement officials,
10 the school administration, an individual who is in imminent
11 danger, or, if the individual who is in imminent danger is
12 a minor, to the parent or guardian of that individual.

13 (4) When directed by a court order to testify in a
14 court of law or administrative hearing about a confidential
15 communication.

16 (c) Any person participating in good faith in the making of
17 a report under the Abused and Neglected Child Reporting Act or
18 in the disclosure of information contained in a confidential
19 communication under this Act shall have immunity from
20 liability, civil, criminal, or otherwise, that might result by
21 reason of such action, except in cases of willful or wanton
22 misconduct. For the purpose of any proceeding, civil or
23 criminal, arising out of a disclosure of information, the good
24 faith of a person making such a disclosure shall be presumed.

25 Section 90. The State Mandates Act is amended by adding

1 Section 8.32 as follows:

2 (30 ILCS 805/8.32 new)

3 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8
4 of this Act, no reimbursement by the State is required for the
5 implementation of any mandate created by this amendatory Act of
6 the 95th General Assembly.