



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4770

Introduced 1/11/2010, by Rep. Jack D. Franks

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. Provides that upon request of a school, school district, community college district, or private school, any information obtained by a school district pursuant specified provisions concerning criminal history records checks within the last 5 years shall be made available to that school, school district, community college district, or private school.

LRB096 15860 MJR 31102 b

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. Subject to appropriations for these
9 purposes, the State Superintendent of Education shall
10 reimburse school districts and regional superintendents for
11 fees paid to obtain criminal history records checks under this
12 Section.

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

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

22 (b) Any information concerning the record of convictions
23 obtained by the president of the school board or the regional
24 superintendent shall be confidential and may only be
25 transmitted to the superintendent of the school district or his
26 designee, the appropriate regional superintendent if the check

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

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

1 (c) No school board shall knowingly employ a person who has
2 been convicted of any offense that would subject him or her to
3 certification suspension or revocation pursuant to Section
4 21-23a of this Code. Further, no school board shall knowingly
5 employ a person who has been found to be the perpetrator of
6 sexual or physical abuse of any minor under 18 years of age
7 pursuant to proceedings under Article II of the Juvenile Court
8 Act of 1987.

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

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

18 (e-5) The superintendent of the employing school board
19 shall, in writing, notify the State Superintendent of Education
20 and the applicable regional superintendent of schools of any
21 certificate holder whom he or she has reasonable cause to
22 believe has committed an intentional act of abuse or neglect
23 with the result of making a child an abused child or a
24 neglected child, as defined in Section 3 of the Abused and
25 Neglected Child Reporting Act, and that act resulted in the
26 certificate holder's dismissal or resignation from the school

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

22 (f) After January 1, 1990 the provisions of this Section
23 shall apply to all employees of persons or firms holding
24 contracts with any school district including, but not limited
25 to, food service workers, school bus drivers and other
26 transportation employees, who have direct, daily contact with

1 the pupils of any school in such district. For purposes of
2 criminal history records checks and checks of the Statewide Sex
3 Offender Database on employees of persons or firms holding
4 contracts with more than one school district and assigned to
5 more than one school district, the regional superintendent of
6 the educational service region in which the contracting school
7 districts are located may, at the request of any such school
8 district, be responsible for receiving the authorization for a
9 criminal history records check prepared by each such employee
10 and submitting the same to the Department of State Police and
11 for conducting a check of the Statewide Sex Offender Database
12 for each employee. Any information concerning the record of
13 conviction and identification as a sex offender 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 (g) Upon request of a school, school district, community
18 college district, or private school, any information obtained
19 by a school district pursuant to this Section within the last 5
20 years shall be made available to that school, school district,
21 community college district, or private school.

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

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

24 Sec. 34-18.5. Criminal history records checks and checks of
25 the Statewide Sex Offender Database and Statewide Child

1 Murderer and Violent Offender Against Youth Database.

2 (a) Certified and noncertified applicants for employment
3 with the school district are required as a condition of
4 employment to authorize a fingerprint-based criminal history
5 records check to determine if such applicants have been
6 convicted of any of the enumerated criminal or drug offenses in
7 subsection (c) of this Section or have been convicted, within 7
8 years of the application for employment with the school
9 district, of any other felony under the laws of this State or
10 of any offense committed or attempted in any other state or
11 against the laws of the United States that, if committed or
12 attempted in this State, would have been punishable as a felony
13 under the laws of this State. Authorization for the check shall
14 be furnished by the applicant to the school district, except
15 that if the applicant is a substitute teacher seeking
16 employment in more than one school district, or a teacher
17 seeking concurrent part-time employment positions with more
18 than one school district (as a reading specialist, special
19 education teacher or otherwise), or an educational support
20 personnel employee seeking employment positions with more than
21 one district, any such district may require the applicant to
22 furnish authorization for the check to the regional
23 superintendent of the educational service region in which are
24 located the school districts in which the applicant is seeking
25 employment as a substitute or concurrent part-time teacher or
26 concurrent educational support personnel employee. Upon

1 receipt of this authorization, the school district or the
2 appropriate regional superintendent, as the case may be, shall
3 submit the applicant's name, sex, race, date of birth, social
4 security number, fingerprint images, and other identifiers, as
5 prescribed by the Department of State Police, to the
6 Department. The regional superintendent submitting the
7 requisite information to the Department of State Police shall
8 promptly notify the school districts in which the applicant is
9 seeking employment as a substitute or concurrent part-time
10 teacher or concurrent educational support personnel employee
11 that the check of the applicant has been requested. The
12 Department of State Police and the Federal Bureau of
13 Investigation shall furnish, pursuant to a fingerprint-based
14 criminal history records check, records of convictions, until
15 expunged, to the president of the school board for the school
16 district that requested the check, or to the regional
17 superintendent who requested the check. The Department shall
18 charge the school district or the appropriate regional
19 superintendent a fee for conducting such check, which fee shall
20 be deposited in the State Police Services Fund and shall not
21 exceed the cost of the inquiry; and the applicant shall not be
22 charged a fee for such check by the school district or by the
23 regional superintendent. Subject to appropriations for these
24 purposes, the State Superintendent of Education shall
25 reimburse the school district and regional superintendent for
26 fees paid to obtain criminal history records checks under this

1 Section.

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

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

11 (b) Any information concerning the record of convictions
12 obtained by the president of the board of education or the
13 regional superintendent shall be confidential and may only be
14 transmitted to the general superintendent of the school
15 district or his designee, the appropriate regional
16 superintendent if the check was requested by the board of
17 education for the school district, the presidents of the
18 appropriate board of education or school boards if the check
19 was requested from the Department of State Police by the
20 regional superintendent, the State Superintendent of
21 Education, the State Teacher Certification Board or any other
22 person necessary to the decision of hiring the applicant for
23 employment. A copy of the record of convictions obtained from
24 the Department of State Police shall be provided to the
25 applicant for employment. Upon the check of the Statewide Sex
26 Offender Database, the school district or regional

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

1 against the laws of the United States that, if committed or
2 attempted in this State, would have been punishable as a felony
3 under the laws of this State and evidencing that as of the date
4 that the regional superintendent conducted a check of the
5 Statewide Sex Offender Database, the applicant has not been
6 identified in the Database as a sex offender. The school board
7 of any school district may rely on the certificate issued by
8 any regional superintendent to that substitute teacher,
9 concurrent part-time teacher, or concurrent educational
10 support personnel employee or may initiate its own criminal
11 history records check of the applicant through the Department
12 of State Police and its own check of the Statewide Sex Offender
13 Database as provided in subsection (a). Any person who releases
14 any confidential information concerning any criminal
15 convictions of an applicant for employment shall be guilty of a
16 Class A misdemeanor, unless the release of such information is
17 authorized by this Section.

18 (c) The board of education shall not knowingly employ a
19 person who has been convicted of any offense that would subject
20 him or her to certification suspension or revocation pursuant
21 to Section 21-23a of this Code. Further, the board of education
22 shall not knowingly employ a person who has been found to be
23 the perpetrator of sexual or physical abuse of any minor under
24 18 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

1 person for whom a criminal history records check and a
2 Statewide Sex Offender Database check has not been initiated.

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

9 (e-5) The general superintendent of schools shall, in
10 writing, notify the State Superintendent of Education of any
11 certificate holder whom he or she has reasonable cause to
12 believe has committed an intentional act of abuse or neglect
13 with the result of making a child an abused child or a
14 neglected child, as defined in Section 3 of the Abused and
15 Neglected Child Reporting Act, and that act resulted in the
16 certificate holder's dismissal or resignation from the school
17 district. This notification must be submitted within 30 days
18 after the dismissal or resignation. The certificate holder must
19 also be contemporaneously sent a copy of the notice by the
20 superintendent. All correspondence, documentation, and other
21 information so received by the State Superintendent of
22 Education, the State Board of Education, or the State Teacher
23 Certification Board under this subsection (e-5) is
24 confidential and must not be disclosed to third parties, except
25 (i) as necessary for the State Superintendent of Education or
26 his or her designee to investigate and prosecute pursuant to

1 Article 21 of this Code, (ii) pursuant to a court order, (iii)
2 for disclosure to the certificate holder or his or her
3 representative, or (iv) as otherwise provided in this Article
4 and provided that any such information admitted into evidence
5 in a hearing is exempt from this confidentiality and
6 non-disclosure requirement. Except for an act of willful or
7 wanton misconduct, any superintendent who provides
8 notification as required in this subsection (e-5) shall have
9 immunity from any liability, whether civil or criminal or that
10 otherwise might result by reason of such action.

11 (f) After March 19, 1990, the provisions of this Section
12 shall apply to all employees of persons or firms holding
13 contracts with any school district including, but not limited
14 to, food service workers, school bus drivers and other
15 transportation employees, who have direct, daily contact with
16 the pupils of any school in such district. For purposes of
17 criminal history records checks and checks of the Statewide Sex
18 Offender Database on employees of persons or firms holding
19 contracts with more than one school district and assigned to
20 more than one school district, the regional superintendent of
21 the educational service region in which the contracting school
22 districts are located may, at the request of any such school
23 district, be responsible for receiving the authorization for a
24 criminal history records check prepared by each such employee
25 and submitting the same to the Department of State Police and
26 for conducting a check of the Statewide Sex Offender Database

1 for each employee. Any information concerning the record of
2 conviction and identification as a sex offender of any such
3 employee obtained by the regional superintendent shall be
4 promptly reported to the president of the appropriate school
5 board or school boards.

6 (g) Upon request of a school, school district, community
7 college district, or private school, any information obtained
8 by the school district pursuant to this Section within the last
9 5 years shall be made available to that school, school
10 district, community college district, or private school.

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