



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5146

Introduced 1/29/2010, by Rep. Michael G. Connelly

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7

from Ch. 37, par. 801-7

705 ILCS 405/5-905

Amends the Juvenile Court Act of 1987. Permits appropriate park district officials to have access to the law enforcement records of a minor arrested or taken into custody before his or her 17th birthday. Provides that inspection and copying shall be limited to law enforcement records transmitted to the appropriate park district official by a local law enforcement agency under a reciprocal reporting system established and maintained between the park district and the local law enforcement agency concerning a minor employed by or seeking employment by the park district who has been arrested for any offense classified as a sex offense under the Sex Offender Registration Act. Effective July 1, 2010.

LRB096 17529 RLC 32886 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7 and 5-905 as follows:

6 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

7 Sec. 1-7. Confidentiality of law enforcement records.

8 (A) Inspection and copying of law enforcement records
9 maintained by law enforcement agencies that relate to a minor
10 who has been arrested or taken into custody before his or her
11 17th birthday shall be restricted to the following:

12 (1) Any local, State or federal law enforcement
13 officers of any jurisdiction or agency when necessary for
14 the discharge of their official duties during the
15 investigation or prosecution of a crime or relating to a
16 minor who has been adjudicated delinquent and there has
17 been a previous finding that the act which constitutes the
18 previous offense was committed in furtherance of criminal
19 activities by a criminal street gang, or, when necessary
20 for the discharge of its official duties in connection with
21 a particular investigation of the conduct of a law
22 enforcement officer, an independent agency or its staff
23 created by ordinance and charged by a unit of local

1 government with the duty of investigating the conduct of
2 law enforcement officers. For purposes of this Section,
3 "criminal street gang" has the meaning ascribed to it in
4 Section 10 of the Illinois Streetgang Terrorism Omnibus
5 Prevention Act.

6 (2) Prosecutors, probation officers, social workers,
7 or other individuals assigned by the court to conduct a
8 pre-adjudication or pre-disposition investigation, and
9 individuals responsible for supervising or providing
10 temporary or permanent care and custody for minors pursuant
11 to the order of the juvenile court, when essential to
12 performing their responsibilities.

13 (3) Prosecutors and probation officers:

14 (a) in the course of a trial when institution of
15 criminal proceedings has been permitted or required
16 under Section 5-805; or

17 (b) when institution of criminal proceedings has
18 been permitted or required under Section 5-805 and such
19 minor is the subject of a proceeding to determine the
20 amount of bail; or

21 (c) when criminal proceedings have been permitted
22 or required under Section 5-805 and such minor is the
23 subject of a pre-trial investigation, pre-sentence
24 investigation, fitness hearing, or proceedings on an
25 application for probation.

26 (4) Adult and Juvenile Prisoner Review Board.

1 (5) Authorized military personnel.

2 (6) Persons engaged in bona fide research, with the
3 permission of the Presiding Judge of the Juvenile Court and
4 the chief executive of the respective law enforcement
5 agency; provided that publication of such research results
6 in no disclosure of a minor's identity and protects the
7 confidentiality of the minor's record.

8 (7) Department of Children and Family Services child
9 protection investigators acting in their official
10 capacity.

11 (8) The appropriate school official. Inspection and
12 copying shall be limited to law enforcement records
13 transmitted to the appropriate school official by a local
14 law enforcement agency under a reciprocal reporting system
15 established and maintained between the school district and
16 the local law enforcement agency under Section 10-20.14 of
17 the School Code concerning a minor enrolled in a school
18 within the school district who has been arrested or taken
19 into custody for any of the following offenses:

20 (i) unlawful use of weapons under Section 24-1 of
21 the Criminal Code of 1961;

22 (ii) a violation of the Illinois Controlled
23 Substances Act;

24 (iii) a violation of the Cannabis Control Act;

25 (iv) a forcible felony as defined in Section 2-8 of
26 the Criminal Code of 1961; or

1 (v) a violation of the Methamphetamine Control and
2 Community Protection Act.

3 (9) Mental health professionals on behalf of the
4 Illinois Department of Corrections or the Department of
5 Human Services or prosecutors who are evaluating,
6 prosecuting, or investigating a potential or actual
7 petition brought under the Sexually Violent Persons
8 Commitment Act relating to a person who is the subject of
9 juvenile law enforcement records or the respondent to a
10 petition brought under the Sexually Violent Persons
11 Commitment Act who is the subject of the juvenile law
12 enforcement records sought. Any records and any
13 information obtained from those records under this
14 paragraph (9) may be used only in sexually violent persons
15 commitment proceedings.

16 (10) The appropriate park district official.
17 Inspection and copying shall be limited to law enforcement
18 records transmitted to the appropriate park district
19 official by a local law enforcement agency under a
20 reciprocal reporting system established and maintained
21 between the park district and the local law enforcement
22 agency concerning a minor employed by or seeking employment
23 by the park district who has been arrested for any offense
24 classified as a sex offense under the Sex Offender
25 Registration Act.

26 (B) (1) Except as provided in paragraph (2), no law

1 enforcement officer or other person or agency may knowingly
2 transmit to the Department of Corrections, Adult Division
3 or the Department of State Police or to the Federal Bureau
4 of Investigation any fingerprint or photograph relating to
5 a minor who has been arrested or taken into custody before
6 his or her 17th birthday, unless the court in proceedings
7 under this Act authorizes the transmission or enters an
8 order under Section 5-805 permitting or requiring the
9 institution of criminal proceedings.

10 (2) Law enforcement officers or other persons or
11 agencies shall transmit to the Department of State Police
12 copies of fingerprints and descriptions of all minors who
13 have been arrested or taken into custody before their 17th
14 birthday for the offense of unlawful use of weapons under
15 Article 24 of the Criminal Code of 1961, a Class X or Class
16 1 felony, a forcible felony as defined in Section 2-8 of
17 the Criminal Code of 1961, or a Class 2 or greater felony
18 under the Cannabis Control Act, the Illinois Controlled
19 Substances Act, the Methamphetamine Control and Community
20 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
21 pursuant to Section 5 of the Criminal Identification Act.
22 Information reported to the Department pursuant to this
23 Section may be maintained with records that the Department
24 files pursuant to Section 2.1 of the Criminal
25 Identification Act. Nothing in this Act prohibits a law
26 enforcement agency from fingerprinting a minor taken into

1 custody or arrested before his or her 17th birthday for an
2 offense other than those listed in this paragraph (2).

3 (C) The records of law enforcement officers, or of an
4 independent agency created by ordinance and charged by a unit
5 of local government with the duty of investigating the conduct
6 of law enforcement officers, concerning all minors under 17
7 years of age must be maintained separate from the records of
8 arrests and may not be open to public inspection or their
9 contents disclosed to the public except by order of the court
10 presiding over matters pursuant to this Act or when the
11 institution of criminal proceedings has been permitted or
12 required under Section 5-805 or such a person has been
13 convicted of a crime and is the subject of pre-sentence
14 investigation or proceedings on an application for probation or
15 when provided by law. For purposes of obtaining documents
16 pursuant to this Section, a civil subpoena is not an order of
17 the court.

18 (1) In cases where the law enforcement, or independent
19 agency, records concern a pending juvenile court case, the
20 party seeking to inspect the records shall provide actual
21 notice to the attorney or guardian ad litem of the minor
22 whose records are sought.

23 (2) In cases where the records concern a juvenile court
24 case that is no longer pending, the party seeking to
25 inspect the records shall provide actual notice to the
26 minor or the minor's parent or legal guardian, and the

1 matter shall be referred to the chief judge presiding over
2 matters pursuant to this Act.

3 (3) In determining whether the records should be
4 available for inspection, the court shall consider the
5 minor's interest in confidentiality and rehabilitation
6 over the moving party's interest in obtaining the
7 information. Any records obtained in violation of this
8 subsection (C) shall not be admissible in any criminal or
9 civil proceeding, or operate to disqualify a minor from
10 subsequently holding public office or securing employment,
11 or operate as a forfeiture of any public benefit, right,
12 privilege, or right to receive any license granted by
13 public authority.

14 (D) Nothing contained in subsection (C) of this Section
15 shall prohibit the inspection or disclosure to victims and
16 witnesses of photographs contained in the records of law
17 enforcement agencies when the inspection and disclosure is
18 conducted in the presence of a law enforcement officer for the
19 purpose of the identification or apprehension of any person
20 subject to the provisions of this Act or for the investigation
21 or prosecution of any crime.

22 (E) Law enforcement officers, and personnel of an
23 independent agency created by ordinance and charged by a unit
24 of local government with the duty of investigating the conduct
25 of law enforcement officers, may not disclose the identity of
26 any minor in releasing information to the general public as to

1 the arrest, investigation or disposition of any case involving
2 a minor.

3 (F) Nothing contained in this Section shall prohibit law
4 enforcement agencies from communicating with each other by
5 letter, memorandum, teletype or intelligence alert bulletin or
6 other means the identity or other relevant information
7 pertaining to a person under 17 years of age if there are
8 reasonable grounds to believe that the person poses a real and
9 present danger to the safety of the public or law enforcement
10 officers. The information provided under this subsection (F)
11 shall remain confidential and shall not be publicly disclosed,
12 except as otherwise allowed by law.

13 (G) Nothing in this Section shall prohibit the right of a
14 Civil Service Commission or appointing authority of any state,
15 county or municipality examining the character and fitness of
16 an applicant for employment with a law enforcement agency,
17 correctional institution, or fire department from obtaining
18 and examining the records of any law enforcement agency
19 relating to any record of the applicant having been arrested or
20 taken into custody before the applicant's 17th birthday.

21 (Source: P.A. 95-123, eff. 8-13-07; 96-419, eff. 8-13-09.)

22 (705 ILCS 405/5-905)

23 Sec. 5-905. Law enforcement records.

24 (1) Law Enforcement Records. Inspection and copying of law
25 enforcement records maintained by law enforcement agencies

1 that relate to a minor who has been arrested or taken into
2 custody before his or her 17th birthday shall be restricted to
3 the following and when necessary for the discharge of their
4 official duties:

5 (a) A judge of the circuit court and members of the
6 staff of the court designated by the judge;

7 (b) Law enforcement officers, probation officers or
8 prosecutors or their staff, or, when necessary for the
9 discharge of its official duties in connection with a
10 particular investigation of the conduct of a law
11 enforcement officer, an independent agency or its staff
12 created by ordinance and charged by a unit of local
13 government with the duty of investigating the conduct of
14 law enforcement officers;

15 (c) The minor, the minor's parents or legal guardian
16 and their attorneys, but only when the juvenile has been
17 charged with an offense;

18 (d) Adult and Juvenile Prisoner Review Boards;

19 (e) Authorized military personnel;

20 (f) Persons engaged in bona fide research, with the
21 permission of the judge of juvenile court and the chief
22 executive of the agency that prepared the particular
23 recording: provided that publication of such research
24 results in no disclosure of a minor's identity and protects
25 the confidentiality of the record;

26 (g) Individuals responsible for supervising or

1 providing temporary or permanent care and custody of minors
2 pursuant to orders of the juvenile court or directives from
3 officials of the Department of Children and Family Services
4 or the Department of Human Services who certify in writing
5 that the information will not be disclosed to any other
6 party except as provided under law or order of court;

7 (h) The appropriate school official. Inspection and
8 copying shall be limited to law enforcement records
9 transmitted to the appropriate school official by a local
10 law enforcement agency under a reciprocal reporting system
11 established and maintained between the school district and
12 the local law enforcement agency under Section 10-20.14 of
13 the School Code concerning a minor enrolled in a school
14 within the school district who has been arrested for any
15 offense classified as a felony or a Class A or B
16 misdemeanor.

17 (i) The appropriate park district official. Inspection
18 and copying shall be limited to law enforcement records
19 transmitted to the appropriate park district official by a
20 local law enforcement agency under a reciprocal reporting
21 system established and maintained between the park
22 district and the local law enforcement agency concerning a
23 minor employed by or seeking employment by the park
24 district who has been arrested for any offense classified
25 as a sex offense under the Sex Offender Registration Act.

26 (2) Information identifying victims and alleged victims of

1 sex offenses, shall not be disclosed or open to public
2 inspection under any circumstances. Nothing in this Section
3 shall prohibit the victim or alleged victim of any sex offense
4 from voluntarily disclosing his or her identity.

5 (3) Relevant information, reports and records shall be made
6 available to the Department of Juvenile Justice when a juvenile
7 offender has been placed in the custody of the Department of
8 Juvenile Justice.

9 (4) Nothing in this Section shall prohibit the inspection
10 or disclosure to victims and witnesses of photographs contained
11 in the records of law enforcement agencies when the inspection
12 or disclosure is conducted in the presence of a law enforcement
13 officer for purposes of identification or apprehension of any
14 person in the course of any criminal investigation or
15 prosecution.

16 (5) The records of law enforcement officers, or of an
17 independent agency created by ordinance and charged by a unit
18 of local government with the duty of investigating the conduct
19 of law enforcement officers, concerning all minors under 17
20 years of age must be maintained separate from the records of
21 adults and may not be open to public inspection or their
22 contents disclosed to the public except by order of the court
23 or when the institution of criminal proceedings has been
24 permitted under Section 5-130 or 5-805 or required under
25 Section 5-130 or 5-805 or such a person has been convicted of a
26 crime and is the subject of pre-sentence investigation or when

1 provided by law.

2 (6) Except as otherwise provided in this subsection (6),
3 law enforcement officers, and personnel of an independent
4 agency created by ordinance and charged by a unit of local
5 government with the duty of investigating the conduct of law
6 enforcement officers, may not disclose the identity of any
7 minor in releasing information to the general public as to the
8 arrest, investigation or disposition of any case involving a
9 minor. Any victim or parent or legal guardian of a victim may
10 petition the court to disclose the name and address of the
11 minor and the minor's parents or legal guardian, or both. Upon
12 a finding by clear and convincing evidence that the disclosure
13 is either necessary for the victim to pursue a civil remedy
14 against the minor or the minor's parents or legal guardian, or
15 both, or to protect the victim's person or property from the
16 minor, then the court may order the disclosure of the
17 information to the victim or to the parent or legal guardian of
18 the victim only for the purpose of the victim pursuing a civil
19 remedy against the minor or the minor's parents or legal
20 guardian, or both, or to protect the victim's person or
21 property from the minor.

22 (7) Nothing contained in this Section shall prohibit law
23 enforcement agencies when acting in their official capacity
24 from communicating with each other by letter, memorandum,
25 teletype or intelligence alert bulletin or other means the
26 identity or other relevant information pertaining to a person

1 under 17 years of age. The information provided under this
2 subsection (7) shall remain confidential and shall not be
3 publicly disclosed, except as otherwise allowed by law.

4 (8) No person shall disclose information under this Section
5 except when acting in his or her official capacity and as
6 provided by law or order of court.

7 (Source: P.A. 96-419, eff. 8-13-09.)

8 Section 99. Effective date. This Act takes effect July 1,
9 2010.