



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5340

Introduced 2/5/2010, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9
105 ILCS 5/34-18.5

from Ch. 122, par. 10-21.9
from Ch. 122, par. 34-18.5

Amends the School Code. With respect to criminal history records checks of applicants for employment with a school district, includes other school districts and a local law enforcement agency as entities to which any information concerning the record of convictions obtained by the president of the school board or the regional superintendent of schools may be transmitted.

LRB096 16870 NHT 35121 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, other school districts, a local law
6 enforcement agency, or any other person necessary to the
7 decision of hiring the applicant for employment. A copy of the
8 record of convictions obtained from the Department of State
9 Police shall be provided to the applicant for employment. Upon
10 the check of the Statewide Sex Offender Database, the school
11 district or regional superintendent shall notify an applicant
12 as to whether or not the applicant has been identified in the
13 Database as a sex offender. If a check of an applicant for
14 employment as a substitute or concurrent part-time teacher or
15 concurrent educational support personnel employee in more than
16 one school district was requested by the regional
17 superintendent, and the Department of State Police upon a check
18 ascertains that the applicant has not been convicted of any of
19 the enumerated criminal or drug offenses in subsection (c) or
20 has not been convicted, within 7 years of the application for
21 employment with the school district, of any other felony under
22 the laws of this State or of any offense committed or attempted
23 in any other state or against the laws of the United States
24 that, if committed or attempted in this State, would have been
25 punishable as a felony under the laws of this State and so
26 notifies the regional superintendent and if the regional

1 superintendent upon a check ascertains that the applicant has
2 not been identified in the Sex Offender Database as a sex
3 offender, then the regional superintendent shall issue to the
4 applicant a certificate evidencing that as of the date
5 specified by the Department of State Police the applicant has
6 not been convicted of any of the enumerated criminal or drug
7 offenses in subsection (c) or has not 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 and evidencing that as of the date
14 that the regional superintendent conducted a check of the
15 Statewide Sex Offender Database, the applicant has not been
16 identified in the Database as a sex offender. The school board
17 of any school district may rely on the certificate issued by
18 any regional superintendent to that substitute teacher,
19 concurrent part-time teacher, or concurrent educational
20 support personnel employee or may initiate its own criminal
21 history records check of the applicant through the Department
22 of State Police and its own check of the Statewide Sex Offender
23 Database as provided in subsection (a). Any person who releases
24 any confidential information concerning any criminal
25 convictions of an applicant for employment shall be guilty of a
26 Class A misdemeanor, unless the release of such information is

1 authorized by this Section.

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

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

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

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

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

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

1 transportation employees, who have direct, daily contact with
2 the pupils of any school in such district. For purposes of
3 criminal history records checks and checks of the Statewide Sex
4 Offender Database on employees of persons or firms holding
5 contracts with more than one school district and assigned to
6 more than one school district, the regional superintendent of
7 the educational service region in which the contracting school
8 districts are located may, at the request of any such school
9 district, be responsible for receiving the authorization for a
10 criminal history records check prepared by each such employee
11 and submitting the same to the Department of State Police and
12 for conducting a check of the Statewide Sex Offender Database
13 for each employee. Any information concerning the record of
14 conviction and identification as a sex offender of any such
15 employee obtained by the regional superintendent shall be
16 promptly reported to the president of the appropriate school
17 board or school boards.

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

19 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

20 Sec. 34-18.5. Criminal history records checks and checks of
21 the Statewide Sex Offender Database and Statewide Child
22 Murderer and Violent Offender Against Youth Database.

23 (a) Certified and noncertified applicants for employment
24 with the school district are required as a condition of
25 employment to authorize a fingerprint-based criminal history

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

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

24 (a-5) The school district or regional superintendent shall
25 further perform a check of the Statewide Sex Offender Database,
26 as authorized by the Sex Offender Community Notification Law,

1 for each applicant.

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

7 (b) Any information concerning the record of convictions
8 obtained by the president of the board of education or the
9 regional superintendent shall be confidential and may only be
10 transmitted to the general superintendent of the school
11 district or his designee, the appropriate regional
12 superintendent if the check was requested by the board of
13 education for the school district, the presidents of the
14 appropriate board of education or school boards if the check
15 was requested from the Department of State Police by the
16 regional superintendent, the State Superintendent of
17 Education, the State Teacher Certification Board, other school
18 districts, a local law enforcement agency, or any other person
19 necessary to the decision of hiring the applicant for
20 employment. A copy of the record of convictions obtained from
21 the Department of State Police shall be provided to the
22 applicant for employment. Upon the check of the Statewide Sex
23 Offender Database, the school district or regional
24 superintendent shall notify an applicant as to whether or not
25 the applicant has been identified in the Database as a sex
26 offender. If a check of an applicant for employment as a

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

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

15 (c) The board of education shall not knowingly employ a
16 person who has been convicted of any offense that would subject
17 him or her to certification suspension or revocation pursuant
18 to Section 21-23a of this Code. Further, the board of education
19 shall not knowingly employ a person who has been found to be
20 the perpetrator of sexual or physical abuse of any minor under
21 18 years of age pursuant to proceedings under Article II of the
22 Juvenile Court Act of 1987.

23 (d) The board of education shall not knowingly employ a
24 person for whom a criminal history records check and a
25 Statewide Sex Offender Database check has not been initiated.

26 (e) Upon receipt of the record of a conviction of or a

1 finding of child abuse by a holder of any certificate issued
2 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
3 Code, the State Superintendent of Education may initiate
4 certificate suspension and revocation proceedings as
5 authorized by law.

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

1 and provided that any such information admitted into evidence
2 in a hearing is exempt from this confidentiality and
3 non-disclosure requirement. Except for an act of willful or
4 wanton misconduct, any superintendent who provides
5 notification as required in this subsection (e-5) shall have
6 immunity from any liability, whether civil or criminal or that
7 otherwise might result by reason of such action.

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

1 promptly reported to the president of the appropriate school
2 board or school boards.

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