



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1240

Introduced 02/08/11, 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 to provisions concerning criminal history records checks and checks of the Statewide Sex Offender Database and Statewide Child Murderer and Violent Offender Against Youth Database within the last 5 years must be made available to that school, school district, community college district, or private school.

LRB097 06601 NHT 46686 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 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, except that those applicants seeking
9 employment as a substitute teacher with a school district may
10 be charged a fee not to exceed the cost of the inquiry. Subject
11 to appropriations for these purposes, the State Superintendent
12 of Education shall reimburse school districts and regional
13 superintendents for fees paid to obtain criminal history
14 records checks under this Section.

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

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

24 (b) Any information concerning the record of convictions
25 obtained by the president of the school board or the regional
26 superintendent shall be confidential and may only be

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

1 any confidential information concerning any criminal
2 convictions of an applicant for employment shall be guilty of a
3 Class A misdemeanor, unless the release of such information is
4 authorized by this Section.

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

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

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

22 (e-5) The superintendent of the employing school board
23 shall, in writing, notify the State Superintendent of Education
24 and the applicable regional superintendent of schools of any
25 certificate holder whom he or she has reasonable cause to
26 believe has committed an intentional act of abuse or neglect

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

26 (f) After January 1, 1990 the provisions of this Section

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

21 (g) In order to student teach in the public schools, a
22 person is required to authorize a fingerprint-based criminal
23 history records check and checks of the Statewide Sex Offender
24 Database and Statewide Child Murderer and Violent Offender
25 Against Youth Database prior to participating in any field
26 experiences in the public schools. Authorization for and

1 payment of the costs of the checks must be furnished by the
2 student teacher. Results of the checks must be furnished to the
3 higher education institution where the student teacher is
4 enrolled and the superintendent of the school district where
5 the student is assigned.

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

11 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09;
12 96-1452, eff. 8-20-10; 96-1489, eff. 1-1-11; revised 1-4-11.)

13 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

14 Sec. 34-18.5. Criminal history records checks and checks of
15 the Statewide Sex Offender Database and Statewide Child
16 Murderer and Violent Offender Against Youth Database.

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

1 that the check of the applicant has been requested. The
2 Department of State Police and the Federal Bureau of
3 Investigation shall furnish, pursuant to a fingerprint-based
4 criminal history records check, records of convictions, until
5 expunged, to the president of the school board for the school
6 district that requested the check, or to the regional
7 superintendent who requested the check. The Department shall
8 charge the school district or the appropriate regional
9 superintendent a fee for conducting such check, which fee shall
10 be deposited in the State Police Services Fund and shall not
11 exceed the cost of the inquiry; and the applicant shall not be
12 charged a fee for such check by the school district or by the
13 regional superintendent. Subject to appropriations for these
14 purposes, the State Superintendent of Education shall
15 reimburse the school district and regional superintendent for
16 fees paid to obtain criminal history records checks under this
17 Section.

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

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

1 (b) Any information concerning the record of convictions
2 obtained by the president of the board of education or the
3 regional superintendent shall be confidential and may only be
4 transmitted to the general superintendent of the school
5 district or his designee, the appropriate regional
6 superintendent if the check was requested by the board of
7 education for the school district, the presidents of the
8 appropriate board of education or school boards if the check
9 was requested from the Department of State Police by the
10 regional superintendent, the State Superintendent of
11 Education, the State Teacher Certification Board or any other
12 person necessary to the decision of hiring the applicant for
13 employment. A copy of the record of convictions obtained from
14 the Department of State Police shall be provided to the
15 applicant for employment. Upon the check of the Statewide Sex
16 Offender Database, the school district or regional
17 superintendent shall notify an applicant as to whether or not
18 the applicant has been identified in the Database as a sex
19 offender. If a check of an applicant for employment as a
20 substitute or concurrent part-time teacher or concurrent
21 educational support personnel employee in more than one school
22 district was requested by the regional superintendent, and the
23 Department of State Police upon a check ascertains that the
24 applicant has not been convicted of any of the enumerated
25 criminal or drug offenses in subsection (c) or has not been
26 convicted, within 7 years of the application for employment

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

1 history records check of the applicant through the Department
2 of State Police and its own check of the Statewide Sex Offender
3 Database as provided in subsection (a). Any person who releases
4 any confidential information concerning any criminal
5 convictions of an applicant for employment shall be guilty of a
6 Class A misdemeanor, unless the release of such information is
7 authorized by this Section.

8 (c) The board of education shall not knowingly employ a
9 person who has been convicted of any offense that would subject
10 him or her to certification suspension or revocation pursuant
11 to Section 21-23a of this Code. Further, the board of education
12 shall not knowingly employ a person who has been found to be
13 the perpetrator of sexual or physical abuse of any minor under
14 18 years of age pursuant to proceedings under Article II of the
15 Juvenile Court Act of 1987.

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

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

25 (e-5) The general superintendent of schools shall, in
26 writing, notify the State Superintendent of Education of any

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

1 (f) After March 19, 1990, the provisions of this Section
2 shall apply to all employees of persons or firms holding
3 contracts with any school district including, but not limited
4 to, food service workers, school bus drivers and other
5 transportation employees, who have direct, daily contact with
6 the pupils of any school in such district. For purposes of
7 criminal history records checks and checks of the Statewide Sex
8 Offender Database on employees of persons or firms holding
9 contracts with more than one school district and assigned to
10 more than one school district, the regional superintendent of
11 the educational service region in which the contracting school
12 districts are located may, at the request of any such school
13 district, be responsible for receiving the authorization for a
14 criminal history records check prepared by each such employee
15 and submitting the same to the Department of State Police and
16 for conducting a check of the Statewide Sex Offender Database
17 for each employee. Any information concerning the record of
18 conviction and identification as a sex offender 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 (g) In order to student teach in the public schools, a
23 person is required to authorize a fingerprint-based criminal
24 history records check and checks of the Statewide Sex Offender
25 Database and Statewide Child Murderer and Violent Offender
26 Against Youth Database prior to participating in any field

1 experiences in the public schools. Authorization for and
2 payment of the costs of the checks must be furnished by the
3 student teacher. Results of the checks must be furnished to the
4 higher education institution where the student teacher is
5 enrolled and the general superintendent of schools.

6 (h) 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 must be made available to that school, school district,
10 community college district, or private school.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09;
12 96-1452, eff. 8-20-10.)