



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3129

Introduced 2/23/2011, by Rep. Darlene J. Senger

SYNOPSIS AS INTRODUCED:

70 ILCS 1205/8-23

705 ILCS 405/1-7

705 ILCS 405/5-905

from Ch. 37, par. 801-7

Amends the Park District Code. Prohibits a park district from knowingly employing a minor who has been adjudicated as committing any of the following offenses: (i) unlawful use of weapons, (ii) a violation of the Illinois Controlled Substances Act, (iii) a violation of certain provisions of the Cannabis Control Act, (iv) a forcible felony, (v) a violation of the Methamphetamine Control and Community Protection Act, or (vi) a felony or a Class A or B misdemeanor. Provides that the Illinois Department of State Police shall conduct a search of the Illinois criminal history records database to ascertain if a minor applicant being considered for employment with a park district has been adjudicated as committing specified offenses. Amends the Juvenile Court Act of 1987. In provisions concerning the confidentiality of the law enforcement records of minors, provides that the president of a park district may have access to specified records of a minor who is applying for employment with the park district.

LRB097 06257 RLJ 46333 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Park District Code is amended by changing
5 Section 8-23 as follows:

6 (70 ILCS 1205/8-23)

7 Sec. 8-23. Criminal background investigations.

8 (a) An applicant for employment with a park district is
9 required as a condition of employment to authorize an
10 investigation to determine if the applicant has been convicted
11 of any of the enumerated criminal or drug offenses in
12 subsection (c) of this Section or has been convicted, within 7
13 years of the application for employment with the park district,
14 of any other felony under the laws of this State or of any
15 offense committed or attempted in any other state or against
16 the laws of the United States that, if committed or attempted
17 in this State, would have been punishable as a felony under the
18 laws of this State. If the applicant is a minor, then the park
19 district must determine if the minor has been adjudicated as
20 committing any of the offenses listed in subsection (d) of this
21 Section. Authorization for the investigation shall be
22 furnished by the applicant to the park district. Upon receipt
23 of this authorization, the park district shall submit the

1 applicant's name, sex, race, date of birth, and social security
2 number to the Department of State Police on forms prescribed by
3 the Department of State Police. The Department of State Police
4 shall conduct a search of the Illinois criminal history records
5 database to ascertain if the applicant being considered for
6 employment has been convicted of committing or attempting to
7 commit any of the enumerated criminal or drug offenses in
8 subsection (c) of this Section or has been convicted of
9 committing or attempting to commit, within 7 years of the
10 application for employment with the park district, any other
11 felony under the laws of this State. If the applicant is a
12 minor, then the Department of State Police shall conduct a
13 search of the Illinois criminal history records database to
14 ascertain if the applicant being considered for employment has
15 been adjudicated as committing any of the offenses listed in
16 subsection (d) of this Section within 7 years of the
17 application for employment with the park district. The
18 Department of State Police shall charge the park district a fee
19 for conducting the investigation, which fee shall be deposited
20 in the State Police Services Fund and shall not exceed the cost
21 of the inquiry. The applicant shall not be charged a fee by the
22 park district for the investigation.

23 (b) If the search of the Illinois criminal history record
24 database indicates that (i) the applicant has been convicted of
25 committing or attempting to commit any of the enumerated
26 criminal or drug offenses in subsection (c) or has been

1 convicted of committing or attempting to commit, within 7 years
2 of the application for employment with the park district, any
3 other felony under the laws of this State or (ii) the applicant
4 is a minor and has been adjudicated as committing any of the
5 offenses listed in subsection (d), then the Department of State
6 Police and the Federal Bureau of Investigation shall furnish,
7 pursuant to a fingerprint based background check, records of
8 convictions, until expunged, to the president of the park
9 district. Any information concerning the record of convictions
10 obtained by the president shall be confidential and may only be
11 transmitted to those persons who are necessary to the decision
12 on whether to hire the applicant for employment. A copy of the
13 record of convictions or adjudications obtained from the
14 Department of State Police shall be provided to the applicant
15 for employment. Any person who releases any confidential
16 information concerning any criminal convictions of an
17 applicant for employment shall be guilty of a Class A
18 misdemeanor, unless the release of such information is
19 authorized by this Section.

20 (c) No park district shall knowingly employ a person who
21 has been convicted for committing attempted first degree murder
22 or for committing or attempting to commit first degree murder,
23 a Class X felony, or any one or more of the following offenses:
24 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,
25 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,
26 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the

1 Criminal Code of 1961; (ii) those defined in the Cannabis
2 Control Act, except those defined in Sections 4(a), 4(b), and
3 5(a) of that Act; (iii) those defined in the Illinois
4 Controlled Substances Act; (iv) those defined in the
5 Methamphetamine Control and Community Protection Act; and (v)
6 any offense committed or attempted in any other state or
7 against the laws of the United States, which, if committed or
8 attempted in this State, would have been punishable as one or
9 more of the foregoing offenses. Further, no park district shall
10 knowingly employ a person who has been found to be the
11 perpetrator of sexual or physical abuse of any minor under 18
12 years of age pursuant to proceedings under Article II of the
13 Juvenile Court Act of 1987. No park district shall knowingly
14 employ a person for whom a criminal background investigation
15 has not been initiated.

16 (d) No park district shall knowingly employ a minor who has
17 been adjudicated as committing any of the following offenses:
18 (i) unlawful use of weapons under Section 24-1 of the Criminal
19 Code of 1961; (ii) a violation of the Illinois Controlled
20 Substances Act; (iii) a violation of the Cannabis Control Act,
21 except those defined in Sections 4(a), 4(b), and 5(a) of that
22 Act; (iv) a forcible felony as defined in Section 2-8 of the
23 Criminal Code of 1961; (v) a violation of the Methamphetamine
24 Control and Community Protection Act; or (vi) a felony or a
25 Class A or B misdemeanor. No park district shall knowingly
26 employ a minor for whom a criminal background investigation has

1 not been initiated.

2 (Source: P.A. 93-418, eff. 1-1-04; 94-556, eff. 9-11-05.)

3 Section 10. The Juvenile Court Act of 1987 is amended by
4 changing Sections 1-7 and 5-905 as follows:

5 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

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

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

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

1 "criminal street gang" has the meaning ascribed to it in
2 Section 10 of the Illinois Streetgang Terrorism Omnibus
3 Prevention Act.

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

11 (3) Prosecutors and probation officers:

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

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

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

24 (4) Adult and Juvenile Prisoner Review Board.

25 (5) Authorized military personnel.

26 (6) Persons engaged in bona fide research, with the

1 permission of the Presiding Judge of the Juvenile Court and
2 the chief executive of the respective law enforcement
3 agency; provided that publication of such research results
4 in no disclosure of a minor's identity and protects the
5 confidentiality of the minor's record.

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

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

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

20 (ii) a violation of the Illinois Controlled
21 Substances Act;

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

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

25 (v) a violation of the Methamphetamine Control and
26 Community Protection Act.

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

14 (10) The president of a park district. Inspection and
15 copying shall be limited to law enforcement records
16 transmitted to the president of the park district by the
17 Illinois State Police under Section 8-23 of the Park
18 District Code concerning a minor who is seeking employment
19 with that park district and who has been adjudicated as
20 having committing any of the following offenses:

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

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

25 (iii) a violation of the Cannabis Control Act,
26 except those defined in Sections 4(a), 4(b), and 5(a)

1 of that Act;

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

4 (v) a violation of the Methamphetamine Control and
5 Community Protection Act; or

6 (vi) a felony or a Class A or B misdemeanor.

7 (B) (1) Except as provided in paragraph (2), no law
8 enforcement officer or other person or agency may knowingly
9 transmit to the Department of Corrections, Adult Division
10 or the Department of State Police or to the Federal Bureau
11 of Investigation any fingerprint or photograph relating to
12 a minor who has been arrested or taken into custody before
13 his or her 17th birthday, unless the court in proceedings
14 under this Act authorizes the transmission or enters an
15 order under Section 5-805 permitting or requiring the
16 institution of criminal proceedings.

17 (2) Law enforcement officers or other persons or
18 agencies shall transmit to the Department of State Police
19 copies of fingerprints and descriptions of all minors who
20 have been arrested or taken into custody before their 17th
21 birthday for the offense of unlawful use of weapons under
22 Article 24 of the Criminal Code of 1961, a Class X or Class
23 1 felony, a forcible felony as defined in Section 2-8 of
24 the Criminal Code of 1961, or a Class 2 or greater felony
25 under the Cannabis Control Act, the Illinois Controlled
26 Substances Act, the Methamphetamine Control and Community

1 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
2 pursuant to Section 5 of the Criminal Identification Act.
3 Information reported to the Department pursuant to this
4 Section may be maintained with records that the Department
5 files pursuant to Section 2.1 of the Criminal
6 Identification Act. Nothing in this Act prohibits a law
7 enforcement agency from fingerprinting a minor taken into
8 custody or arrested before his or her 17th birthday for an
9 offense other than those listed in this paragraph (2).

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

25 (1) In cases where the law enforcement, or independent
26 agency, records concern a pending juvenile court case, the

1 party seeking to inspect the records shall provide actual
2 notice to the attorney or guardian ad litem of the minor
3 whose records are sought.

4 (2) In cases where the records concern a juvenile court
5 case that is no longer pending, the party seeking to
6 inspect the records shall provide actual notice to the
7 minor or the minor's parent or legal guardian, and the
8 matter shall be referred to the chief judge presiding over
9 matters pursuant to this Act.

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

21 (D) Nothing contained in subsection (C) of this Section
22 shall prohibit the inspection or disclosure to victims and
23 witnesses of photographs contained in the records of law
24 enforcement agencies when the inspection and disclosure is
25 conducted in the presence of a law enforcement officer for the
26 purpose of the identification or apprehension of any person

1 subject to the provisions of this Act or for the investigation
2 or prosecution of any crime.

3 (E) Law enforcement officers, and personnel 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, may not disclose the identity of
7 any minor in releasing information to the general public as to
8 the arrest, investigation or disposition of any case involving
9 a minor.

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

20 (G) Nothing in this Section shall prohibit the right of a
21 Civil Service Commission or appointing authority of any state,
22 county or municipality examining the character and fitness of
23 an applicant for employment with a law enforcement agency,
24 correctional institution, or fire department from obtaining
25 and examining the records of any law enforcement agency
26 relating to any record of the applicant having been arrested or

1 taken into custody before the applicant's 17th birthday.

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

3 (705 ILCS 405/5-905)

4 Sec. 5-905. Law enforcement records.

5 (1) Law Enforcement Records. Inspection and copying of law
6 enforcement records maintained by law enforcement agencies
7 that relate to a minor who has been arrested or taken into
8 custody before his or her 17th birthday shall be restricted to
9 the following and when necessary for the discharge of their
10 official duties:

11 (a) A judge of the circuit court and members of the
12 staff of the court designated by the judge;

13 (b) Law enforcement officers, probation officers or
14 prosecutors or their staff, or, when necessary for the
15 discharge of its official duties in connection with a
16 particular investigation of the conduct of a law
17 enforcement officer, an independent agency or its staff
18 created by ordinance and charged by a unit of local
19 government with the duty of investigating the conduct of
20 law enforcement officers;

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

24 (d) Adult and Juvenile Prisoner Review Boards;

25 (e) Authorized military personnel;

1 (f) Persons engaged in bona fide research, with the
2 permission of the judge of juvenile court and the chief
3 executive of the agency that prepared the particular
4 recording: provided that publication of such research
5 results in no disclosure of a minor's identity and protects
6 the confidentiality of the record;

7 (g) Individuals responsible for supervising or
8 providing temporary or permanent care and custody of minors
9 pursuant to orders of the juvenile court or directives from
10 officials of the Department of Children and Family Services
11 or the Department of Human Services who certify in writing
12 that the information will not be disclosed to any other
13 party except as provided under law or order of court;

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

24 (i) The president of a park district. Inspection and
25 copying shall be limited to law enforcement records
26 transmitted to the president of the park district by the

1 Illinois State Police under Section 8-23 of the Park
2 District Code concerning a minor who is seeking employment
3 with that park district and who has been adjudicated as
4 having committed any of the following offenses:

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

7 (ii) a violation of the Illinois Controlled
8 Substances Act;

9 (iii) a violation of the Cannabis Control Act,
10 except those defined in Sections 4(a), 4(b), and 5(a)
11 of that Act;

12 (iv) a forcible felony as defined in Section 2-8 of
13 the Criminal Code of 1961;

14 (v) a violation of the Methamphetamine Control and
15 Community Protection Act; or

16 (vi) a felony or a Class A or B misdemeanor.

17 (2) Information identifying victims and alleged victims of
18 sex offenses, shall not be disclosed or open to public
19 inspection under any circumstances. Nothing in this Section
20 shall prohibit the victim or alleged victim of any sex offense
21 from voluntarily disclosing his or her identity.

22 (2.5) If the minor is a victim of aggravated battery,
23 battery, attempted first degree murder, or other non-sexual
24 violent offense, the identity of the victim may be disclosed to
25 appropriate school officials, for the purpose of preventing
26 foreseeable future violence involving minors, by a local law

1 enforcement agency pursuant to an agreement established
2 between the school district and a local law enforcement agency
3 subject to the approval by the presiding judge of the juvenile
4 court.

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; 96-1414, eff. 1-1-11.)