



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2896

Introduced 2/1/2012, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9

from Ch. 122, par. 10-21.9

Amends the School Code. Provides that a school board of any school district shall rely on the background check certificate issued by any regional superintendent to a substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee if that substitute teacher, concurrent part-time teacher, or concurrent educational support personnel employee presents such certificate (now, a school board may rely on such certificate).

LRB097 13416 RPM 57934 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 Section
5 10-21.9 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 Murderer and
9 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 Murderer and Violent
21 Offender Against Youth Database, as authorized by the Murderer
22 and Violent Offender Against Youth Community Notification Law,
23 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 shall ~~may~~ rely on the certificate issued
21 by any regional superintendent to that substitute teacher,
22 concurrent part-time teacher, or concurrent educational
23 support personnel employee if that substitute teacher,
24 concurrent part-time teacher, or concurrent educational
25 support personnel employee presents a certificate issued by a
26 regional superintendent 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) if that substitute
4 teacher, concurrent part-time teacher, or concurrent
5 educational support personnel employee does not have a
6 certificate issued by a regional superintendent. Any person who
7 releases any confidential information concerning any criminal
8 convictions of an applicant for employment shall be guilty of a
9 Class A misdemeanor, unless the release of such information is
10 authorized by this Section.

11 (c) No school board shall knowingly employ a person who has
12 been convicted of any offense that would subject him or her to
13 license suspension or revocation pursuant to Section 21B-80 of
14 this Code. Further, no school board shall knowingly employ a
15 person who has been found to be the perpetrator of sexual or
16 physical abuse of any minor under 18 years of age pursuant to
17 proceedings under Article II of the Juvenile Court Act of 1987.

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

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

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

1 who provides notification as required in this subsection (e-5)
2 shall have immunity from any liability, whether civil or
3 criminal or that otherwise might result by reason of such
4 action.

5 (f) After January 1, 1990 the provisions of this Section
6 shall apply to all employees of persons or firms holding
7 contracts with any school district including, but not limited
8 to, food service workers, school bus drivers and other
9 transportation employees, who have direct, daily contact with
10 the pupils of any school in such district. For purposes of
11 criminal history records checks and checks of the Statewide Sex
12 Offender Database on employees of persons or firms holding
13 contracts with more than one school district and assigned to
14 more than one school district, the regional superintendent of
15 the educational service region in which the contracting school
16 districts are located may, at the request of any such school
17 district, be responsible for receiving the authorization for a
18 criminal history records check prepared by each such employee
19 and submitting the same to the Department of State Police and
20 for conducting a check of the Statewide Sex Offender Database
21 for each employee. Any information concerning the record of
22 conviction and identification as a sex offender of any such
23 employee obtained by the regional superintendent shall be
24 promptly reported to the president of the appropriate school
25 board or school boards.

26 (g) In order to student teach in the public schools, a

1 person is required to authorize a fingerprint-based criminal
2 history records check and checks of the Statewide Sex Offender
3 Database and Statewide Murderer and Violent Offender Against
4 Youth Database prior to participating in any field experiences
5 in the public schools. Authorization for and payment of the
6 costs of the checks must be furnished by the student teacher.
7 Results of the checks must be furnished to the higher education
8 institution where the student teacher is enrolled and the
9 superintendent of the school district where the student is
10 assigned.

11 (h) Upon request of a school, school district, community
12 college district, or private school, any information obtained
13 by a school district pursuant to subsection (f) of this Section
14 within the last year must be made available to that school,
15 school district, community college district, or private
16 school.

17 (Source: P.A. 96-431, eff. 8-13-09; 96-1452, eff. 8-20-10;
18 96-1489, eff. 1-1-11; 97-154, eff. 1-1-12; 97-248, eff. 1-1-12;
19 97-607, eff. 8-26-11; revised 9-21-11.)