



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4191

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/22-80 new

Amends the School Code. Provides that (i) prior to being asked any question or being requested to make any statement while in the presence of a police officer, a student must be informed of the right not to answer any question or to make any statement in the presence of a police officer; (ii) prior to being asked any question or being requested to make any statement while in the presence of a police officer, a student must be informed of the right to have a parent, a guardian, or an attorney present during such questioning or request for a statement; (iii) prior to being asked any question or being requested to make any statement while in the presence of a police officer, a student must be informed that any information given in the presence of a police officer may result in an arrest and in the issuing of a summons and may be used in school discipline and in criminal prosecution; (iv) prior to the presence of a police officer during the questioning of a student or of a request for a statement, the school principal shall approve the presence of the police officer during the questioning of or while making a request for any statement from the student; and (v) prior to the presence of a police officer during the questioning of or while making a request for any statement from a student, a parent or guardian of the student must be given notification of the opportunity to be present during the questioning. Sets forth provisions concerning the notification, school principal and police officer consultation, and tracking and reporting data. Effective July 1, 2014.

LRB098 13721 NHT 48248 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 adding Section  
5 22-80 as follows:

6 (105 ILCS 5/22-80 new)

7 Sec. 22-80. Student Bill of Rights.

8 (a) It is the policy of this State to eliminate the  
9 criminalization of minor instances of student misconduct in  
10 schools, to prevent police questioning and police presence  
11 during questioning of students in schools without prior  
12 explanation to the students of their right to refuse to answer  
13 questions, and to provide parents with reasonable  
14 opportunities to be present during police questioning and  
15 police presence during questioning of students in schools.  
16 Pursuant to these purposes, it is the policy of this State to  
17 ensure that school administrators carefully consider the needs  
18 of each student when determining whether to involve a school  
19 resource officer or another sworn police officer in a student  
20 disciplinary matter. It is also the policy of this State that  
21 providing the rights specified in this Section to individual  
22 students be balanced with the need for schools to maintain the  
23 safety of all students.

1       (b) In this Section:

2               "Dangerous misconduct" means action by a student that  
3       poses a substantial risk of imminent harm to the student or  
4       to other persons. Examples of such actions are possessing a  
5       firearm, possessing an explosive substance or device,  
6       possessing a knife with a blade in excess of 3 inches, and  
7       possessing a controlled substance in a quantity that  
8       indicates an intent to sell pursuant to State law.

9               "Police officer" means any sworn police officer,  
10       including without limitation a sworn officer known as a  
11       school resource officer or known by any other term for a  
12       sworn officer assigned to a school.

13               "Notification" means use of a telephone call, voice  
14       mail, text, e-mail or any other means known by the school  
15       to be a means to contact a person and by using all such  
16       means until at least one means is successful or until all  
17       are tried without success.

18               "Opportunity to be present" means a point in time no  
19       sooner than 48 hours after notification.

20               "Presence of a police officer" means any situation in  
21       which a police officer is in the physical presence of a  
22       student or when a police officer can, by any means, see a  
23       student or hear a statement made by a student.

24               "School" means a public school.

25               "Student" means a public school student.

26       (c) Prior to being asked any question or being requested to

1 make any statement while in the presence of a police officer, a  
2 student must be informed of the right not to answer any  
3 question or to make any statement in the presence of a police  
4 officer.

5 (d) Prior to being asked any question or being requested to  
6 make any statement while in the presence of a police officer, a  
7 student must be informed of the right to have a parent, a  
8 guardian, or an attorney present during such questioning or  
9 request for a statement.

10 (e) Prior to being asked any question or being requested to  
11 make any statement while in the presence of a police officer, a  
12 student must be informed that any information given in the  
13 presence of a police officer may result in an arrest and in the  
14 issuing of a summons and may be used in school discipline and  
15 in criminal prosecution.

16 (f) Prior to the presence of a police officer during the  
17 questioning of a student or of a request for a statement, the  
18 school principal shall approve the presence of the police  
19 officer during the questioning of or while making a request for  
20 any statement from the student.

21 (g) Prior to the presence of a police officer during the  
22 questioning of or while making a request for any statement from  
23 a student, a parent or guardian of the student must be given  
24 notification of the opportunity to be present during the  
25 questioning, except that, in the case of dangerous misconduct,  
26 the parent or guardian must be given notification of the

1 opportunity to be present no later than simultaneous with the  
2 initiation of the questioning or with the request for a  
3 statement.

4 (h) Except in the case of conduct that involves a  
5 continuing threat of harm to students or property and  
6 information to mitigate or eliminate the possible harm can be  
7 obtained by questioning, a parent, guardian, or attorney shall  
8 have up to 48 hours after notification to be present when a  
9 student is questioned or asked to make a statement in the  
10 presence of a police officer, and the student must not be  
11 questioned or asked to make a statement until the sooner of the  
12 presence of a parent, guardian, or attorney or 48 hours have  
13 elapsed after notification to the parent or guardian.

14 (i) Prior to the arrest of or the issuing of a summons to a  
15 student accused of misconduct in school, the school principal  
16 and the police officer shall consult together to discuss  
17 whether an arrest or issuing of a summons is necessary and in  
18 the best interests of the student and of the school.

19 (j) Schools shall track arrests, summonses, and  
20 notifications. Before July 1, 2015 and before each July 1  
21 thereafter, each school district shall submit to its school  
22 board a report with data from the preceding school year that  
23 includes all of the following:

24 (1) The number of notifications made by the school.

25 (2) The number of students charged for crimes committed  
26 on school property.

1           (3) The race, age, ethnicity, and disability status of  
2           each student arrested or issued a summons for each charge.

3           (4) The offense for which the student, identified only  
4           by his or her race, age, ethnicity, and disability status,  
5           has been arrested.

6           No student's name or identifiable information other than  
7           the information listed in this subsection (j) may be included  
8           in the report. The school board shall electronically submit  
9           this report to the State Board of Education on or before August  
10          1 of each year.

11           Section 99. Effective date. This Act takes effect July 1,  
12          2014.