



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1923

Introduced 2/15/2013, by Sen. Kwame Raoul

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-8

from Ch. 37, par. 801-8

Amends the Juvenile Court Act of 1987. Provides that subject to certain limitations specified in the Act, the court presiding over the juvenile court proceeding brought under the Act, in its discretion, may order that juvenile court records may be made available in individual cases to representatives of agencies, associations, news media, and other properly interested persons. Provides that in determining whether inspection should be limited to certain parts of the file, the court shall consider the minor's interest in confidentiality and rehabilitation over the moving party's interest in obtaining the information. Effective immediately.

LRB098 09291 RLC 40882 b

1 AN ACT concerning courts.

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

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 changing Section 1-8 as follows:

6 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

7 Sec. 1-8. Confidentiality and accessibility of juvenile  
8 court records.

9 (A) Inspection and copying of juvenile court records  
10 relating to a minor who is the subject of a proceeding under  
11 this Act shall be restricted to the following:

12 (1) The minor who is the subject of record, his  
13 parents, guardian and counsel.

14 (2) Law enforcement officers and law enforcement  
15 agencies when such information is essential to executing an  
16 arrest or search warrant or other compulsory process, or to  
17 conducting an ongoing investigation or relating to a minor  
18 who has been adjudicated delinquent and there has been a  
19 previous finding that the act which constitutes the  
20 previous offense was committed in furtherance of criminal  
21 activities by a criminal street gang.

22 Before July 1, 1994, for the purposes of this Section,  
23 "criminal street gang" means any ongoing organization,

1 association, or group of 3 or more persons, whether formal  
2 or informal, having as one of its primary activities the  
3 commission of one or more criminal acts and that has a  
4 common name or common identifying sign, symbol or specific  
5 color apparel displayed, and whose members individually or  
6 collectively engage in or have engaged in a pattern of  
7 criminal activity.

8 Beginning July 1, 1994, for purposes of this Section,  
9 "criminal street gang" has the meaning ascribed to it in  
10 Section 10 of the Illinois Streetgang Terrorism Omnibus  
11 Prevention Act.

12 (3) Judges, hearing officers, prosecutors, probation  
13 officers, social workers or other individuals assigned by  
14 the court to conduct a pre-adjudication or predisposition  
15 investigation, and individuals responsible for supervising  
16 or providing temporary or permanent care and custody for  
17 minors pursuant to the order of the juvenile court when  
18 essential to performing their responsibilities.

19 (4) Judges, prosecutors and probation officers:

20 (a) in the course of a trial when institution of  
21 criminal proceedings has been permitted or required  
22 under Section 5-805; or

23 (b) when criminal proceedings have been permitted  
24 or required under Section 5-805 and a minor is the  
25 subject of a proceeding to determine the amount of  
26 bail; or

1           (c) when criminal proceedings have been permitted  
2 or required under Section 5-805 and a minor is the  
3 subject of a pre-trial investigation, pre-sentence  
4 investigation or fitness hearing, or proceedings on an  
5 application for probation; or

6           (d) when a minor becomes 17 years of age or older,  
7 and is the subject of criminal proceedings, including a  
8 hearing to determine the amount of bail, a pre-trial  
9 investigation, a pre-sentence investigation, a fitness  
10 hearing, or proceedings on an application for  
11 probation.

12           (5) Adult and Juvenile Prisoner Review Boards.

13           (6) Authorized military personnel.

14           (7) Victims, their subrogees and legal  
15 representatives; however, such persons shall have access  
16 only to the name and address of the minor and information  
17 pertaining to the disposition or alternative adjustment  
18 plan of the juvenile court.

19           (8) Persons engaged in bona fide research, with the  
20 permission of the presiding judge of the juvenile court and  
21 the chief executive of the agency that prepared the  
22 particular records; provided that publication of such  
23 research results in no disclosure of a minor's identity and  
24 protects the confidentiality of the record.

25           (9) The Secretary of State to whom the Clerk of the  
26 Court shall report the disposition of all cases, as

1 required in Section 6-204 of the Illinois Vehicle Code.  
2 However, information reported relative to these offenses  
3 shall be privileged and available only to the Secretary of  
4 State, courts, and police officers.

5 (10) The administrator of a bonafide substance abuse  
6 student assistance program with the permission of the  
7 presiding judge of the juvenile court.

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

20 (A-1) Findings and exclusions of paternity entered in  
21 proceedings occurring under Article II of this Act shall be  
22 disclosed, in a manner and form approved by the Presiding Judge  
23 of the Juvenile Court, to the Department of Healthcare and  
24 Family Services when necessary to discharge the duties of the  
25 Department of Healthcare and Family Services under Article X of  
26 the Illinois Public Aid Code.

1 (B) A minor who is the victim in a juvenile proceeding  
2 shall be provided the same confidentiality regarding  
3 disclosure of identity as the minor who is the subject of  
4 record.

5 (C) Except as otherwise provided in this subsection (C),  
6 juvenile court records shall not be made available to the  
7 general public. Subject to the limitations in paragraphs (0.1)  
8 through (0.4) of this subsection (C), the court presiding over  
9 the juvenile court proceeding brought under this Act, in its  
10 discretion, may order that juvenile court records may be made  
11 available in individual cases to representatives of agencies,  
12 associations, news media, and other properly interested  
13 persons. For purposes of obtaining documents under this  
14 subsection (C), a civil subpoena is not an order of the court.  
15 ~~but may be inspected by representatives of agencies,~~  
16 ~~associations and news media or other properly interested~~  
17 ~~persons by general or special order of the court presiding over~~  
18 ~~matters pursuant to this Act.~~

19 (0.1) In cases where the records concern a pending  
20 juvenile court case, the party seeking to inspect the  
21 juvenile court records shall provide actual notice to the  
22 attorney or guardian ad litem of the minor whose records  
23 are sought.

24 (0.2) In cases where the records concern a juvenile  
25 court case that is no longer pending, the party seeking to  
26 inspect the juvenile court records shall provide actual

1 notice to the minor or the minor's parent or legal  
2 guardian, and the matter shall be referred to the chief  
3 judge presiding over matters pursuant to this Act.

4 (0.3) In determining whether the records should be  
5 available for inspection and in determining whether  
6 inspection should be limited to certain parts of the file,  
7 the court shall consider the minor's interest in  
8 confidentiality and rehabilitation over the moving party's  
9 interest in obtaining the information. The State's  
10 Attorney, the minor, and the minor's parents, guardian, and  
11 counsel shall at all times have the right to examine court  
12 files and records. ~~For purposes of obtaining documents~~  
13 ~~pursuant to this Section, a civil subpoena is not an order~~  
14 ~~of the court.~~

15 (0.4) Any records obtained in violation of this  
16 subsection (C) shall not be admissible in any criminal or  
17 civil proceeding, or operate to disqualify a minor from  
18 subsequently holding public office, or operate as a  
19 forfeiture of any public benefit, right, privilege, or  
20 right to receive any license granted by public authority.

21 (1) The court shall allow the general public to have  
22 access to the name, address, and offense of a minor who is  
23 adjudicated a delinquent minor under this Act under either  
24 of the following circumstances:

25 (A) The adjudication of delinquency was based upon  
26 the minor's commission of first degree murder, attempt

1 to commit first degree murder, aggravated criminal  
2 sexual assault, or criminal sexual assault; or

3 (B) The court has made a finding that the minor was  
4 at least 13 years of age at the time the act was  
5 committed and the adjudication of delinquency was  
6 based upon the minor's commission of: (i) an act in  
7 furtherance of the commission of a felony as a member  
8 of or on behalf of a criminal street gang, (ii) an act  
9 involving the use of a firearm in the commission of a  
10 felony, (iii) an act that would be a Class X felony  
11 offense under or the minor's second or subsequent Class  
12 2 or greater felony offense under the Cannabis Control  
13 Act if committed by an adult, (iv) an act that would be  
14 a second or subsequent offense under Section 402 of the  
15 Illinois Controlled Substances Act if committed by an  
16 adult, (v) an act that would be an offense under  
17 Section 401 of the Illinois Controlled Substances Act  
18 if committed by an adult, (vi) an act that would be a  
19 second or subsequent offense under Section 60 of the  
20 Methamphetamine Control and Community Protection Act,  
21 or (vii) an act that would be an offense under another  
22 Section of the Methamphetamine Control and Community  
23 Protection Act.

24 (2) The court shall allow the general public to have  
25 access to the name, address, and offense of a minor who is  
26 at least 13 years of age at the time the offense is



1 committed and who is convicted, in criminal proceedings  
2 permitted or required under Section 5-4, under either of  
3 the following circumstances:

4 (A) The minor has been convicted of first degree  
5 murder, attempt to commit first degree murder,  
6 aggravated criminal sexual assault, or criminal sexual  
7 assault,

8 (B) The court has made a finding that the minor was  
9 at least 13 years of age at the time the offense was  
10 committed and the conviction was based upon the minor's  
11 commission of: (i) an offense in furtherance of the  
12 commission of a felony as a member of or on behalf of a  
13 criminal street gang, (ii) an offense involving the use  
14 of a firearm in the commission of a felony, (iii) a  
15 Class X felony offense under or a second or subsequent  
16 Class 2 or greater felony offense under the Cannabis  
17 Control Act, (iv) a second or subsequent offense under  
18 Section 402 of the Illinois Controlled Substances Act,  
19 (v) an offense under Section 401 of the Illinois  
20 Controlled Substances Act, (vi) an act that would be a  
21 second or subsequent offense under Section 60 of the  
22 Methamphetamine Control and Community Protection Act,  
23 or (vii) an act that would be an offense under another  
24 Section of the Methamphetamine Control and Community  
25 Protection Act.

26 (D) Pending or following any adjudication of delinquency

1 for any offense defined in Sections 11-1.20 through 11-1.60 or  
2 12-13 through 12-16 of the Criminal Code of 1961 or the  
3 Criminal Code of 2012, the victim of any such offense shall  
4 receive the rights set out in Sections 4 and 6 of the Bill of  
5 Rights for Victims and Witnesses of Violent Crime Act; and the  
6 juvenile who is the subject of the adjudication,  
7 notwithstanding any other provision of this Act, shall be  
8 treated as an adult for the purpose of affording such rights to  
9 the victim.

10 (E) Nothing in this Section shall affect the right of a  
11 Civil Service Commission or appointing authority of any state,  
12 county or municipality examining the character and fitness of  
13 an applicant for employment with a law enforcement agency,  
14 correctional institution, or fire department to ascertain  
15 whether that applicant was ever adjudicated to be a delinquent  
16 minor and, if so, to examine the records of disposition or  
17 evidence which were made in proceedings under this Act.

18 (F) Following any adjudication of delinquency for a crime  
19 which would be a felony if committed by an adult, or following  
20 any adjudication of delinquency for a violation of Section  
21 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the  
22 Criminal Code of 2012, the State's Attorney shall ascertain  
23 whether the minor respondent is enrolled in school and, if so,  
24 shall provide a copy of the dispositional order to the  
25 principal or chief administrative officer of the school. Access  
26 to such juvenile records shall be limited to the principal or

1 chief administrative officer of the school and any guidance  
2 counselor designated by him.

3 (G) Nothing contained in this Act prevents the sharing or  
4 disclosure of information or records relating or pertaining to  
5 juveniles subject to the provisions of the Serious Habitual  
6 Offender Comprehensive Action Program when that information is  
7 used to assist in the early identification and treatment of  
8 habitual juvenile offenders.

9 (H) When a Court hearing a proceeding under Article II of  
10 this Act becomes aware that an earlier proceeding under Article  
11 II had been heard in a different county, that Court shall  
12 request, and the Court in which the earlier proceedings were  
13 initiated shall transmit, an authenticated copy of the Court  
14 record, including all documents, petitions, and orders filed  
15 therein and the minute orders, transcript of proceedings, and  
16 docket entries of the Court.

17 (I) The Clerk of the Circuit Court shall report to the  
18 Department of State Police, in the form and manner required by  
19 the Department of State Police, the final disposition of each  
20 minor who has been arrested or taken into custody before his or  
21 her 17th birthday for those offenses required to be reported  
22 under Section 5 of the Criminal Identification Act. Information  
23 reported to the Department under this Section may be maintained  
24 with records that the Department files under Section 2.1 of the  
25 Criminal Identification Act.

26 (Source: P.A. 96-212, eff. 8-10-09; 96-1551, eff. 7-1-11;

1 97-813, eff. 7-13-12; 97-1150, eff. 1-25-13.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.