

SB2249



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2249

Introduced 2/14/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-8

from Ch. 37, par. 801-8

Amends the Juvenile Court Act of 1987. Makes a technical change in a Section concerning the confidentiality and accessibility of juvenile court records.

LRB095 17561 RLC 43635 b

A BILL FOR

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 ~~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 Persons Commitment Act
13 relating to a person who is the subject of juvenile court
14 records or the respondent to a petition brought under the
15 Sexually Violent Persons Commitment Act, who is the subject
16 of juvenile court records sought. Any records and any
17 information obtained from those records under this
18 paragraph (11) may be used only in sexually violent persons
19 commitment proceedings.

20 (B) A minor who is the victim in a juvenile proceeding
21 shall be provided the same confidentiality regarding
22 disclosure of identity as the minor who is the subject of
23 record.

24 (C) Except as otherwise provided in this subsection (C),
25 juvenile court records shall not be made available to the
26 general public but may be inspected by representatives of

1 agencies, associations and news media or other properly
2 interested persons by general or special order of the court
3 presiding over matters pursuant to this Act.

4 (0.1) In cases where the records concern a pending
5 juvenile court case, the party seeking to inspect the
6 juvenile court records shall provide actual notice to the
7 attorney or guardian ad litem of the minor whose records
8 are sought.

9 (0.2) In cases where the records concern a juvenile
10 court case that is no longer pending, the party seeking to
11 inspect the juvenile court records shall provide actual
12 notice to the minor or the minor's parent or legal
13 guardian, and the matter shall be referred to the chief
14 judge presiding over matters pursuant to this Act.

15 (0.3) In determining whether the records should be
16 available for inspection, the court shall consider the
17 minor's interest in confidentiality and rehabilitation
18 over the moving party's interest in obtaining the
19 information. The State's Attorney, the minor, and the
20 minor's parents, guardian, and counsel shall at all times
21 have the right to examine court files and records. For
22 purposes of obtaining documents pursuant to this Section, a
23 civil subpoena is not an order of the court.

24 (0.4) Any records obtained in violation of this
25 subsection (C) shall not be admissible in any criminal or
26 civil proceeding, or operate to disqualify a minor from

1 subsequently holding public office, or operate as a
2 forfeiture of any public benefit, right, privilege, or
3 right to receive any license granted by public authority.

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

8 (A) The adjudication of delinquency was based upon
9 the minor's commission of first degree murder, attempt
10 to commit first degree murder, aggravated criminal
11 sexual assault, or criminal sexual assault; or

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

1 if committed by an adult, (vi) an act that would be a
2 second or subsequent offense under Section 60 of the
3 Methamphetamine Control and Community Protection Act,
4 or (vii) an act that would be an offense under another
5 Section of the Methamphetamine Control and Community
6 Protection Act.

7 (2) The court shall allow the general public to have
8 access to the name, address, and offense of a minor who is
9 at least 13 years of age at the time the offense is
10 committed and who is convicted, in criminal proceedings
11 permitted or required under Section 5-4, under either of
12 the following circumstances:

13 (A) The minor has been convicted of first degree
14 murder, attempt to commit first degree murder,
15 aggravated criminal sexual assault, or criminal sexual
16 assault,

17 (B) The court has made a finding that the minor was
18 at least 13 years of age at the time the offense was
19 committed and the conviction was based upon the minor's
20 commission of: (i) an offense in furtherance of the
21 commission of a felony as a member of or on behalf of a
22 criminal street gang, (ii) an offense involving the use
23 of a firearm in the commission of a felony, (iii) a
24 Class X felony offense under or a second or subsequent
25 Class 2 or greater felony offense under the Cannabis
26 Control Act, (iv) a second or subsequent offense under

1 Section 402 of the Illinois Controlled Substances Act,
2 (v) an offense under Section 401 of the Illinois
3 Controlled Substances Act, (vi) an act that would be a
4 second or subsequent offense under Section 60 of the
5 Methamphetamine Control and Community Protection Act,
6 or (vii) an act that would be an offense under another
7 Section of the Methamphetamine Control and Community
8 Protection Act.

9 (D) Pending or following any adjudication of delinquency
10 for any offense defined in Sections 12-13 through 12-16 of the
11 Criminal Code of 1961, the victim of any such offense shall
12 receive the rights set out in Sections 4 and 6 of the Bill of
13 Rights for Victims and Witnesses of Violent Crime Act; and the
14 juvenile who is the subject of the adjudication,
15 notwithstanding any other provision of this Act, shall be
16 treated as an adult for the purpose of affording such rights to
17 the victim.

18 (E) Nothing in this Section shall affect the right of a
19 Civil Service Commission or appointing authority of any state,
20 county or municipality examining the character and fitness of
21 an applicant for employment with a law enforcement agency,
22 correctional institution, or fire department to ascertain
23 whether that applicant was ever adjudicated to be a delinquent
24 minor and, if so, to examine the records of disposition or
25 evidence which were made in proceedings under this Act.

26 (F) Following any adjudication of delinquency for a crime

1 which would be a felony if committed by an adult, or following
2 any adjudication of delinquency for a violation of Section
3 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
4 State's Attorney shall ascertain whether the minor respondent
5 is enrolled in school and, if so, shall provide a copy of the
6 dispositional order to the principal or chief administrative
7 officer of the school. Access to such juvenile records shall be
8 limited to the principal or chief administrative officer of the
9 school and any guidance counselor designated by him.

10 (G) Nothing contained in this Act prevents the sharing or
11 disclosure of information or records relating or pertaining to
12 juveniles subject to the provisions of the Serious Habitual
13 Offender Comprehensive Action Program when that information is
14 used to assist in the early identification and treatment of
15 habitual juvenile offenders.

16 (H) When a Court hearing a proceeding under Article II of
17 this Act becomes aware that an earlier proceeding under Article
18 II had been heard in a different county, that Court shall
19 request, and the Court in which the earlier proceedings were
20 initiated shall transmit, an authenticated copy of the Court
21 record, including all documents, petitions, and orders filed
22 therein and the minute orders, transcript of proceedings, and
23 docket entries of the Court.

24 (I) The Clerk of the Circuit Court shall report to the
25 Department of State Police, in the form and manner required by
26 the Department of State Police, the final disposition of each

1 minor who has been arrested or taken into custody before his or
2 her 17th birthday for those offenses required to be reported
3 under Section 5 of the Criminal Identification Act. Information
4 reported to the Department under this Section may be maintained
5 with records that the Department files under Section 2.1 of the
6 Criminal Identification Act.

7 (Source: P.A. 94-556, eff. 9-11-05; 95-123, eff. 8-13-07.)