



Rep. Darlene J. Senger

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1 AMENDMENT TO HOUSE BILL 640

2 AMENDMENT NO. _____. Amend House Bill 640, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The School Code is amended by changing Sections
6 13A-2.5 and 13A-4 as follows:

7 (105 ILCS 5/13A-2.5)

8 Sec. 13A-2.5. Disruptive student. "Disruptive student"
9 includes suspension or expulsion eligible students and
10 students in any of grades 6 through 12, other than students in
11 a school district organized under Article 34 of this Code,
12 against whom juvenile or criminal proceedings alleging the
13 commission of a forcible felony, as defined in Section 2-8 of
14 the Criminal Code of 1961, are pending or against whom juvenile
15 or criminal proceedings alleging the commission of a sex
16 offense, as defined in Section 2 of the Sex Offender

1 Registration Act, are pending ~~in any of grades 6 through 12.~~

2 "Suspension or expulsion eligible students" are those students
3 that have been found to be eligible for suspension or expulsion
4 through the discipline process established by a school
5 district.

6 (Source: P.A. 89-383, eff. 8-18-95.)

7 (105 ILCS 5/13A-4)

8 Sec. 13A-4. Administrative transfers. A student who is
9 determined to be subject to suspension or expulsion in the
10 manner provided by Section 10-22.6 (or, in the case of a
11 student enrolled in the public schools of a school district
12 organized under Article 34, in accordance with the uniform
13 system of discipline established under Section 34-19) or a
14 student whom the school district has deemed to pose a continued
15 and substantial disruption to the school environment may be
16 immediately transferred to the alternative program. Transfer
17 to the alternative program shall take place only after a
18 student is allowed to access the due process procedure
19 established by the school district. This process shall include
20 a notice presented to the student's parents or guardian stating
21 the intent to transfer the student to an alternative program
22 and an opportunity for the parents or guardian to respond. At
23 the earliest time following that transfer appropriate
24 personnel from the sending school district and appropriate
25 personnel of the alternative program shall meet to develop an

1 alternative education plan for the student. The student's
2 parent or guardian shall be invited to this meeting. The
3 student may be invited. The alternative educational plan shall
4 include, but not be limited to all of the following:

5 (1) The duration of the plan, including a date after
6 which the student may be returned to the regular
7 educational program in the public schools of the
8 transferring district. If the parent or guardian of a
9 student who is scheduled to be returned to the regular
10 education program in the public schools of the district
11 files a written objection to the return with the principal
12 of the alternative school, the matter shall be referred by
13 the principal to the regional superintendent of the
14 educational service region in which the alternative school
15 program is located for a hearing. Notice of the hearing
16 shall be given by the regional superintendent to the
17 student's parent or guardian. After the hearing, the
18 regional superintendent may take such action as he or she
19 finds appropriate and in the best interests of the student.
20 The determination of the regional superintendent shall be
21 final.

22 (2) The specific academic and behavioral components of
23 the plan.

24 (3) A method and time frame for reviewing the student's
25 progress.

26 Notwithstanding any other provision of this Article, if a

1 student for whom an individualized educational program has been
2 developed under Article 14 is transferred to an alternative
3 school program under this Article 13A, that individualized
4 educational program shall continue to apply to that student
5 following the transfer unless modified in accordance with the
6 provisions of Article 14.

7 (Source: P.A. 89-383, eff. 8-18-95; 89-629, eff. 8-9-96.)

8 Section 10. The Juvenile Court Act of 1987 is amended by
9 changing Sections 1-8 and 5-520 as follows:

10 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

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

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

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

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

1 activities by a criminal street gang.

2 Before July 1, 1994, for the purposes of this Section,
3 "criminal street gang" means any ongoing organization,
4 association, or group of 3 or more persons, whether formal
5 or informal, having as one of its primary activities the
6 commission of one or more criminal acts and that has a
7 common name or common identifying sign, symbol or specific
8 color apparel displayed, and whose members individually or
9 collectively engage in or have engaged in a pattern of
10 criminal activity.

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

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

22 (4) Judges, prosecutors and probation officers:

23 (a) in the course of a trial when institution of
24 criminal proceedings has been permitted or required
25 under Section 5-805; or

26 (b) when criminal proceedings have been permitted

1 or required under Section 5-805 and a minor is the
2 subject of a proceeding to determine the amount of
3 bail; or

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

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

15 (5) Adult and Juvenile Prisoner Review Boards.

16 (6) Authorized military personnel.

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

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

1 protects the confidentiality of the record.

2 (9) The Secretary of State to whom the Clerk of the
3 Court shall report the disposition of all cases, as
4 required in Section 6-204 of the Illinois Vehicle Code.
5 However, information reported relative to these offenses
6 shall be privileged and available only to the Secretary of
7 State, courts, and police officers.

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

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

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

1 (C) Except as otherwise provided in this subsection (C),
2 juvenile court records shall not be made available to the
3 general public but may be inspected by representatives of
4 agencies, associations and news media or other properly
5 interested persons by general or special order of the court
6 presiding over matters pursuant to this Act.

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

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

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

1 (0.4) Any records obtained in violation of this
2 subsection (C) shall not be admissible in any criminal or
3 civil proceeding, or operate to disqualify a minor from
4 subsequently holding public office, or operate as a
5 forfeiture of any public benefit, right, privilege, or
6 right to receive any license granted by public authority.

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

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

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

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

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

16 (A) The minor has been convicted of first degree
17 murder, attempt to commit first degree murder,
18 aggravated criminal sexual assault, or criminal sexual
19 assault,

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

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

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

21 (E) Nothing in this Section shall affect the right of a
22 Civil Service Commission or appointing authority of any state,
23 county or municipality examining the character and fitness of
24 an applicant for employment with a law enforcement agency,
25 correctional institution, or fire department to ascertain
26 whether that applicant was ever adjudicated to be a delinquent

1 minor and, if so, to examine the records of disposition or
2 evidence which were made in proceedings under this Act.

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

13 (F-5) Pending an adjudication of delinquency for the
14 commission of a forcible felony, as defined in Section 2-8 of
15 the Criminal Code of 1961, or for the commission of a sex
16 offense, as defined in Section 2 of the Sex Offender
17 Registration Act, the State's Attorney shall ascertain whether
18 the minor respondent is enrolled in school and, if so, request
19 permission of the presiding judge of the juvenile court to
20 disclose to the principal or chief administrative officer of
21 the school the portion of the juvenile petition or supplemental
22 petition that is sufficient to bring the minor under the
23 jurisdiction of Section 5-120 of this Act. In determining
24 whether the records should be disclosed, the court shall
25 consider the minor's interest in confidentiality and
26 rehabilitation over the school's interest in obtaining the

1 information. The court order shall require that the (i)
2 disclosure be limited to the principal or chief administrative
3 officer of the school and any guidance counselor designated by
4 the principal or chief administrative officer and (ii) the
5 State's Attorney notify the principal or chief administrative
6 officer of the school as to whether the allegations have been
7 dismissed or amended or have resulted in an adjudication of
8 delinquency.

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

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

23 (I) The Clerk of the Circuit Court shall report to the
24 Department of State Police, in the form and manner required by
25 the Department of State Police, the final disposition of each
26 minor who has been arrested or taken into custody before his or

1 her 17th birthday for those offenses required to be reported
2 under Section 5 of the Criminal Identification Act. Information
3 reported to the Department under this Section may be maintained
4 with records that the Department files under Section 2.1 of the
5 Criminal Identification Act.

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

7 (705 ILCS 405/5-520)

8 Sec. 5-520. Petition; supplemental petitions.

9 (1) The State's Attorney may file, or the court on its own
10 motion may direct the filing through the State's Attorney of, a
11 petition in respect to a minor under this Act. The petition and
12 all subsequent court documents shall be entitled "In the
13 interest of, a minor".

14 (2) The petition shall be verified but the statements may
15 be made upon information and belief. It shall allege that the
16 minor is delinquent and set forth (a) facts sufficient to bring
17 the minor under Section 5-120; (b) the name, age and residence
18 of the minor; (c) the names and residences of his parents; (d)
19 the name and residence of his or her guardian or legal
20 custodian or the person or persons having custody or control of
21 the minor, or of the nearest known relative if no parent,
22 guardian or legal custodian can be found; ~~and~~ (e) if the minor
23 upon whose behalf the petition is brought is detained or
24 sheltered in custody, the date on which detention or shelter
25 care was ordered by the court or the date set for a detention

1 or shelter care hearing; and (f) if the minor upon whose behalf
2 a petition is brought is charged with the commission of a
3 forcible felony, as defined in Section 2-8 of the Criminal Code
4 of 1961, or is charged with the commission of a sex offense, as
5 defined in Section 2 of the Sex Offender Registration Act, and
6 is enrolled in school, a request pursuant to subsection (F-5)
7 of Section 1-8 of this Act to disclose to the principal or
8 chief administrative officer of that school the portion of the
9 juvenile petition or supplemental petition that is sufficient
10 to bring the minor under the jurisdiction of Section 5-120 of
11 this Act. If any of the facts required by this subsection (2)
12 are not known by the petitioner, the petition shall so state.

13 (3) The petition must pray that the minor be adjudged a
14 ward of the court and may pray generally for relief available
15 under this Act. The petition need not specify any proposed
16 disposition following adjudication of wardship.

17 (4) At any time before dismissal of the petition or before
18 final closing and discharge under Section 5-750, one or more
19 supplemental petitions may be filed (i) alleging new offenses
20 or (ii) alleging violations of orders entered by the court in
21 the delinquency proceeding.

22 (Source: P.A. 90-590, eff. 1-1-99.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."