

**SB3375**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB3375**

Introduced 2/10/2010, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

105 ILCS 5/10-21.9

from Ch. 122, par. 10-21.9

Amends the School Code. Provides that if a criminal background check reveals certain convictions, then the person is ineligible for employment and shall be dismissed. Effective immediately.

LRB096 17733 MJR 33098 b

**A BILL FOR**

1 AN ACT concerning schools.

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 Child  
9 Murderer and 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, and if the  
22 person has been so convicted, then the person shall be  
23 ineligible for employment in a school district and shall be

1 dismissed when evidence of the existence of the conviction is  
2 obtained by school officials. Authorization for the check shall  
3 be furnished by the applicant to the school district, except  
4 that if the applicant is a substitute teacher seeking  
5 employment in more than one school district, a teacher seeking  
6 concurrent part-time employment positions with more than one  
7 school district (as a reading specialist, special education  
8 teacher or otherwise), or an educational support personnel  
9 employee seeking employment positions with more than one  
10 district, any such district may require the applicant to  
11 furnish authorization for the check to the regional  
12 superintendent of the educational service region in which are  
13 located the school districts in which the applicant is seeking  
14 employment as a substitute or concurrent part-time teacher or  
15 concurrent educational support personnel employee. Upon  
16 receipt of this authorization, the school district or the  
17 appropriate regional superintendent, as the case may be, shall  
18 submit the applicant's name, sex, race, date of birth, social  
19 security number, fingerprint images, and other identifiers, as  
20 prescribed by the Department of State Police, to the  
21 Department. The regional superintendent submitting the  
22 requisite information to the Department of State Police shall  
23 promptly notify the school districts in which the applicant is  
24 seeking employment as a substitute or concurrent part-time  
25 teacher or concurrent educational support personnel employee  
26 that the check of the applicant has been requested. The

1 Department of State Police and the Federal Bureau of  
2 Investigation shall furnish, pursuant to a fingerprint-based  
3 criminal history records check, records of convictions, until  
4 expunged, to the president of the school board for the school  
5 district that requested the check, or to the regional  
6 superintendent who requested the check. The Department shall  
7 charge the school district or the appropriate regional  
8 superintendent a fee for conducting such check, which fee shall  
9 be deposited in the State Police Services Fund and shall not  
10 exceed the cost of the inquiry; and the applicant shall not be  
11 charged a fee for such check by the school district or by the  
12 regional superintendent. Subject to appropriations for these  
13 purposes, the State Superintendent of Education shall  
14 reimburse school districts and regional superintendents for  
15 fees paid to obtain criminal history records checks under this  
16 Section.

17 (a-5) The school district or regional superintendent shall  
18 further perform a check of the Statewide Sex Offender Database,  
19 as authorized by the Sex Offender Community Notification Law,  
20 for each applicant.

21 (a-6) The school district or regional superintendent shall  
22 further perform a check of the Statewide Child Murderer and  
23 Violent Offender Against Youth Database, as authorized by the  
24 Child Murderer and Violent Offender Against Youth Community  
25 Notification Law, for each applicant.

26 (b) Any information concerning the record of convictions

1 obtained by the president of the school board or the regional  
2 superintendent shall be confidential and may only be  
3 transmitted to the superintendent of the school district or his  
4 designee, the appropriate regional superintendent if the check  
5 was requested by the school district, the presidents of the  
6 appropriate school boards if the check was requested from the  
7 Department of State Police by the regional superintendent, the  
8 State Superintendent of Education, the State Teacher  
9 Certification Board or any other person necessary to the  
10 decision of hiring the applicant for employment. A copy of the  
11 record of convictions obtained from the Department of State  
12 Police shall be provided to the applicant for employment. Upon  
13 the check of the Statewide Sex Offender Database, the school  
14 district or regional superintendent shall notify an applicant  
15 as to whether or not the applicant has been identified in the  
16 Database as a sex offender. If a check of an applicant for  
17 employment as a substitute or concurrent part-time teacher or  
18 concurrent educational support personnel employee in more than  
19 one school district was requested by the regional  
20 superintendent, and the Department of State Police upon a check  
21 ascertains that the applicant has not been convicted of any of  
22 the enumerated criminal or drug offenses in subsection (c) or  
23 has not been convicted, within 7 years of the application for  
24 employment with the school district, of any other felony under  
25 the laws of this State or of any offense committed or attempted  
26 in any other state or against the laws of the United States

1 that, if 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 may rely on the certificate issued by  
21 any regional superintendent to that substitute teacher,  
22 concurrent part-time teacher, or concurrent educational  
23 support personnel employee or may initiate its own criminal  
24 history records check of the applicant through the Department  
25 of State Police and its own check of the Statewide Sex Offender  
26 Database as provided in subsection (a). Any person who releases

1 any confidential information concerning any criminal  
2 convictions of an applicant for employment shall be guilty of a  
3 Class A misdemeanor, unless the release of such information is  
4 authorized by this Section.

5 (c) No school board shall knowingly employ a person who has  
6 been convicted of any offense that would subject him or her to  
7 certification suspension or revocation pursuant to Section  
8 21-23a of this Code. Further, no school board shall knowingly  
9 employ a person who has been found to be the perpetrator of  
10 sexual or physical abuse of any minor under 18 years of age  
11 pursuant to proceedings under Article II of the Juvenile Court  
12 Act of 1987.

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

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

22 (e-5) The superintendent of the employing school board  
23 shall, in writing, notify the State Superintendent of Education  
24 and the applicable regional superintendent of schools of any  
25 certificate holder whom he or she has reasonable cause to  
26 believe has committed an intentional act of abuse or neglect

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

26 (f) After January 1, 1990 the provisions of this Section



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

21 (Source: P.A. 95-331, eff. 8-21-07; 96-431, eff. 8-13-09.)

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