



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5002

Introduced 2/7/2012, by Rep. Norine Hammond

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-21.9	from Ch. 122, par. 10-21.9
105 ILCS 5/34-18.5	from Ch. 122, par. 34-18.5

Amends the School Code. Exempts retired certified teachers who are substitute teachers seeking employment from provisions requiring applicants, as a condition of employment with a school district, to authorize a fingerprint-based criminal history records check, a check of the Statewide Sex Offender Database, and a check of the Statewide Murderer and Violent Offender Against Youth Database if there is no gap in time between the expiration of the retired teacher's teaching certificate and the issuance of the substitute teacher's certificate. Effective immediately.

LRB097 15040 NHT 63463 b

FISCAL NOTE ACT
MAY APPLY

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 changing Sections
5 10-21.9 and 34-18.5 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 Murderer and
9 Violent Offender Against Youth Database.

10 (a) Certified and noncertified applicants for employment
11 with a school district, except retired certified teachers who
12 are substitute teachers seeking employment in cases in which
13 there is no gap in time between the expiration of the retired
14 teacher's teaching certificate and the issuance of the
15 substitute teacher's certificate and school bus driver
16 applicants, are required as a condition of employment to
17 authorize a fingerprint-based criminal history records check
18 to determine if such applicants have been convicted of any of
19 the enumerated criminal or drug offenses in subsection (c) of
20 this Section or have been convicted, within 7 years of the
21 application for employment with the school district, of any
22 other felony under the laws of this State or of any offense
23 committed or attempted in any other state or against the laws

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

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

20 (a-5) The school district or regional superintendent shall
21 further perform a check of the Statewide Sex Offender Database,
22 as authorized by the Sex Offender Community Notification Law,
23 for each applicant. This subsection (a-5) does not apply to
24 retired certified teachers who are substitute teachers seeking
25 employment in cases in which there is no gap in time between
26 the expiration of the retired teacher's teaching certificate

1 and the issuance of the substitute teacher's certificate.

2 (a-6) The school district or regional superintendent shall
3 further perform a check of the Statewide Murderer and Violent
4 Offender Against Youth Database, as authorized by the Murderer
5 and Violent Offender Against Youth Community Notification Law,
6 for each applicant. This subsection (a-6) does not apply to
7 retired certified teachers who are substitute teachers seeking
8 employment in cases in which there is no gap in time between
9 the expiration of the retired teacher's teaching certificate
10 and the issuance of the substitute teacher's certificate.

11 (b) Any information concerning the record of convictions
12 obtained by the president of the school board or the regional
13 superintendent shall be confidential and may only be
14 transmitted to the superintendent of the school district or his
15 designee, the appropriate regional superintendent if the check
16 was requested by the school district, the presidents of the
17 appropriate school boards if the check was requested from the
18 Department of State Police by the regional superintendent, the
19 State Superintendent of Education, the State Teacher
20 Certification Board, any other person necessary to the decision
21 of hiring the applicant for employment, or for clarification
22 purposes the Department of State Police or Statewide Sex
23 Offender Database, or both. A copy of the record of convictions
24 obtained from the Department of State Police shall be provided
25 to the applicant for employment. Upon the check of the
26 Statewide Sex Offender Database, the school district or

1 regional superintendent shall notify an applicant as to whether
2 or not the applicant has been identified in the Database as a
3 sex offender. If a check of an applicant for employment as a
4 substitute or concurrent part-time teacher or concurrent
5 educational support personnel employee in more than one school
6 district was requested by the regional superintendent, and the
7 Department of State Police upon a check ascertains that the
8 applicant has not been convicted of any of the enumerated
9 criminal or drug offenses in subsection (c) or has not been
10 convicted, within 7 years of the application for employment
11 with the school district, of any other felony under the laws of
12 this State or of any offense committed or attempted in any
13 other state or against the laws of the United States that, if
14 committed or attempted in this State, would have been
15 punishable as a felony under the laws of this State and so
16 notifies the regional superintendent and if the regional
17 superintendent upon a check ascertains that the applicant has
18 not been identified in the Sex Offender Database as a sex
19 offender, then the regional superintendent shall issue to the
20 applicant a certificate evidencing that as of the date
21 specified by the Department of State Police the applicant has
22 not been convicted of any of the enumerated criminal or drug
23 offenses in subsection (c) or has not been convicted, within 7
24 years of the application for employment with the school
25 district, of any other felony under the laws of this State or
26 of any offense committed or attempted in any other state or

1 against the laws of the United States that, if committed or
2 attempted in this State, would have been punishable as a felony
3 under the laws of this State and evidencing that as of the date
4 that the regional superintendent conducted a check of the
5 Statewide Sex Offender Database, the applicant has not been
6 identified in the Database as a sex offender. The school board
7 of any school district may rely on the certificate issued by
8 any regional superintendent to that substitute teacher,
9 concurrent part-time teacher, or concurrent educational
10 support personnel employee or may initiate its own criminal
11 history records check of the applicant through the Department
12 of State Police and its own check of the Statewide Sex Offender
13 Database as provided in subsection (a). Any person who releases
14 any confidential information concerning any criminal
15 convictions of an applicant for employment shall be guilty of a
16 Class A misdemeanor, unless the release of such information is
17 authorized by this Section.

18 (c) No school board shall knowingly employ a person who has
19 been convicted of any offense that would subject him or her to
20 license suspension or revocation pursuant to Section 21B-80 of
21 this Code. Further, no school board shall knowingly employ a
22 person who has been found to be the perpetrator of sexual or
23 physical abuse of any minor under 18 years of age pursuant to
24 proceedings under Article II of the Juvenile Court Act of 1987.

25 (d) No school board shall knowingly employ a person for
26 whom a criminal history records check and a Statewide Sex

1 Offender Database check has not been initiated. This subsection
2 (d) does not apply to retired certified teachers who are
3 substitute teachers seeking employment in cases in which there
4 is no gap in time between the expiration of the retired
5 teacher's teaching certificate and the issuance of the
6 substitute teacher's certificate.

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

13 (e-5) The superintendent of the employing school board
14 shall, in writing, notify the State Superintendent of Education
15 and the applicable regional superintendent of schools of any
16 certificate holder whom he or she has reasonable cause to
17 believe has committed an intentional act of abuse or neglect
18 with the result of making a child an abused child or a
19 neglected child, as defined in Section 3 of the Abused and
20 Neglected Child Reporting Act, and that act resulted in the
21 certificate holder's dismissal or resignation from the school
22 district. This notification must be submitted within 30 days
23 after the dismissal or resignation. The certificate holder must
24 also be contemporaneously sent a copy of the notice by the
25 superintendent. All correspondence, documentation, and other
26 information so received by the regional superintendent of

1 schools, the State Superintendent of Education, the State Board
2 of Education, or the State Teacher Certification Board under
3 this subsection (e-5) is confidential and must not be disclosed
4 to third parties, except (i) as necessary for the State
5 Superintendent of Education or his or her designee to
6 investigate and prosecute pursuant to Article 21 of this Code,
7 (ii) pursuant to a court order, (iii) for disclosure to the
8 certificate holder or his or her representative, or (iv) as
9 otherwise provided in this Article and provided that any such
10 information admitted into evidence in a hearing is exempt from
11 this confidentiality and non-disclosure requirement. Except
12 for an act of willful or wanton misconduct, any superintendent
13 who provides notification as required in this subsection (e-5)
14 shall have immunity from any liability, whether civil or
15 criminal or that otherwise might result by reason of such
16 action.

17 (f) After January 1, 1990 the provisions of this Section
18 shall apply to all employees of persons or firms holding
19 contracts with any school district including, but not limited
20 to, food service workers, school bus drivers and other
21 transportation employees, who have direct, daily contact with
22 the pupils of any school in such district. For purposes of
23 criminal history records checks and checks of the Statewide Sex
24 Offender Database on employees of persons or firms holding
25 contracts with more than one school district and assigned to
26 more than one school district, the regional superintendent of

1 the educational service region in which the contracting school
2 districts are located may, at the request of any such school
3 district, be responsible for receiving the authorization for a
4 criminal history records check prepared by each such employee
5 and submitting the same to the Department of State Police and
6 for conducting a check of the Statewide Sex Offender Database
7 for each employee. Any information concerning the record of
8 conviction and identification as a sex offender of any such
9 employee obtained by the regional superintendent shall be
10 promptly reported to the president of the appropriate school
11 board or school boards.

12 (g) In order to student teach in the public schools, a
13 person is required to authorize a fingerprint-based criminal
14 history records check and checks of the Statewide Sex Offender
15 Database and Statewide Murderer and Violent Offender Against
16 Youth Database prior to participating in any field experiences
17 in the public schools. Authorization for and payment of the
18 costs of the checks must be furnished by the student teacher.
19 Results of the checks must be furnished to the higher education
20 institution where the student teacher is enrolled and the
21 superintendent of the school district where the student is
22 assigned.

23 (h) Upon request of a school, school district, community
24 college district, or private school, any information obtained
25 by a school district pursuant to subsection (f) of this Section
26 within the last year must be made available to that school,

1 school district, community college district, or private
2 school.

3 (Source: P.A. 96-431, eff. 8-13-09; 96-1452, eff. 8-20-10;
4 96-1489, eff. 1-1-11; 97-154, eff. 1-1-12; 97-248, eff. 1-1-12;
5 97-607, eff. 8-26-11; revised 9-21-11.)

6 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

7 Sec. 34-18.5. Criminal history records checks and checks of
8 the Statewide Sex Offender Database and Statewide Murderer and
9 Violent Offender Against Youth Database.

10 (a) Certified and noncertified applicants for employment
11 with the school district, except retired certified teachers who
12 are substitute teachers seeking employment in cases in which
13 there is no gap in time between the expiration of the retired
14 teacher's teaching certificate and the issuance of the
15 substitute teacher's certificate, are required as a condition
16 of employment to authorize a fingerprint-based criminal
17 history records check to determine if such applicants have been
18 convicted of any of the enumerated criminal or drug offenses in
19 subsection (c) of this Section or have been convicted, within 7
20 years of the application for employment with the school
21 district, of any other felony under the laws of this State or
22 of any offense committed or attempted in any other state or
23 against the laws of the United States that, if committed or
24 attempted in this State, would have been punishable as a felony
25 under the laws of this State. Authorization for the check shall

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

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

15 (a-5) The school district or regional superintendent shall
16 further perform a check of the Statewide Sex Offender Database,
17 as authorized by the Sex Offender Community Notification Law,
18 for each applicant. This subsection (a-5) does not apply to
19 retired certified teachers who are substitute teachers seeking
20 employment in cases in which there is no gap in time between
21 the expiration of the retired teacher's teaching certificate
22 and the issuance of the substitute teacher's certificate.

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

1 for each applicant. This subsection (a-6) does not apply to
2 retired certified teachers who are substitute teachers seeking
3 employment in cases in which there is no gap in time between
4 the expiration of the retired teacher's teaching certificate
5 and the issuance of the substitute teacher's certificate.

6 (b) Any information concerning the record of convictions
7 obtained by the president of the board of education or the
8 regional superintendent shall be confidential and may only be
9 transmitted to the general superintendent of the school
10 district or his designee, the appropriate regional
11 superintendent if the check was requested by the board of
12 education for the school district, the presidents of the
13 appropriate board of education or school boards if the check
14 was requested from the Department of State Police by the
15 regional superintendent, the State Superintendent of
16 Education, the State Teacher Certification Board or any other
17 person necessary to the decision of hiring the applicant for
18 employment. A copy of the record of convictions obtained from
19 the Department of State Police shall be provided to the
20 applicant for employment. Upon the check of the Statewide Sex
21 Offender Database, the school district or regional
22 superintendent shall notify an applicant as to whether or not
23 the applicant has been identified in the Database as a sex
24 offender. If a check of an applicant for employment as a
25 substitute or concurrent part-time teacher or concurrent
26 educational support personnel employee in more than one school

1 district was requested by the regional superintendent, and the
2 Department of State Police upon a check ascertains that the
3 applicant has not been convicted of any of the enumerated
4 criminal or drug offenses in subsection (c) or has not been
5 convicted, within 7 years of the application for employment
6 with the school district, of any other felony under the laws of
7 this State or of any offense committed or attempted in any
8 other state or against the laws of the United States that, if
9 committed or attempted in this State, would have been
10 punishable as a felony under the laws of this State and so
11 notifies the regional superintendent and if the regional
12 superintendent upon a check ascertains that the applicant has
13 not been identified in the Sex Offender Database as a sex
14 offender, then the regional superintendent shall issue to the
15 applicant a certificate evidencing that as of the date
16 specified by the Department of State Police the applicant has
17 not been convicted of any of the enumerated criminal or drug
18 offenses in subsection (c) or has not been convicted, within 7
19 years of the application for employment with the school
20 district, of any other felony under the laws of this State or
21 of any offense committed or attempted in any other state or
22 against the laws of the United States that, if committed or
23 attempted in this State, would have been punishable as a felony
24 under the laws of this State and evidencing that as of the date
25 that the regional superintendent conducted a check of the
26 Statewide Sex Offender Database, the applicant has not been

1 identified in the Database as a sex offender. The school board
2 of any school district may rely on the certificate issued by
3 any regional superintendent to that substitute teacher,
4 concurrent part-time teacher, or concurrent educational
5 support personnel employee or may initiate its own criminal
6 history records check of the applicant through the Department
7 of State Police and its own check of the Statewide Sex Offender
8 Database as provided in subsection (a). Any person who releases
9 any confidential information concerning any criminal
10 convictions of an applicant for employment shall be guilty of a
11 Class A misdemeanor, unless the release of such information is
12 authorized by this Section.

13 (c) The board of education shall not knowingly employ a
14 person who has been convicted of any offense that would subject
15 him or her to license suspension or revocation pursuant to
16 Section 21B-80 of this Code. Further, the board of education
17 shall not knowingly employ a person who has been found to be
18 the perpetrator of sexual or physical abuse of any minor under
19 18 years of age pursuant to proceedings under Article II of the
20 Juvenile Court Act of 1987.

21 (d) The board of education shall not knowingly employ a
22 person for whom a criminal history records check and a
23 Statewide Sex Offender Database check has not been initiated.
24 This subsection (d) does not apply to retired certified
25 teachers who are substitute teachers seeking employment in
26 cases in which there is no gap in time between the expiration

1 of the retired teacher's teaching certificate and the issuance
2 of the substitute teacher's certificate.

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

9 (e-5) The general superintendent of schools shall, in
10 writing, notify the State Superintendent of Education of any
11 certificate holder whom he or she has reasonable cause to
12 believe has committed an intentional act of abuse or neglect
13 with the result of making a child an abused child or a
14 neglected child, as defined in Section 3 of the Abused and
15 Neglected Child Reporting Act, and that act resulted in the
16 certificate holder's dismissal or resignation from the school
17 district. This notification must be submitted within 30 days
18 after the dismissal or resignation. The certificate holder must
19 also be contemporaneously sent a copy of the notice by the
20 superintendent. All correspondence, documentation, and other
21 information so received by the State Superintendent of
22 Education, the State Board of Education, or the State Teacher
23 Certification Board under this subsection (e-5) is
24 confidential and must not be disclosed to third parties, except
25 (i) as necessary for the State Superintendent of Education or
26 his or her designee to investigate and prosecute pursuant to

1 Article 21 of this Code, (ii) pursuant to a court order, (iii)
2 for disclosure to the certificate holder or his or her
3 representative, or (iv) as otherwise provided in this Article
4 and provided that any such information admitted into evidence
5 in a hearing is exempt from this confidentiality and
6 non-disclosure requirement. Except for an act of willful or
7 wanton misconduct, any superintendent who provides
8 notification as required in this subsection (e-5) shall have
9 immunity from any liability, whether civil or criminal or that
10 otherwise might result by reason of such action.

11 (f) After March 19, 1990, the provisions of this Section
12 shall apply to all employees of persons or firms holding
13 contracts with any school district including, but not limited
14 to, food service workers, school bus drivers and other
15 transportation employees, who have direct, daily contact with
16 the pupils of any school in such district. For purposes of
17 criminal history records checks and checks of the Statewide Sex
18 Offender Database on employees of persons or firms holding
19 contracts with more than one school district and assigned to
20 more than one school district, the regional superintendent of
21 the educational service region in which the contracting school
22 districts are located may, at the request of any such school
23 district, be responsible for receiving the authorization for a
24 criminal history records check prepared by each such employee
25 and submitting the same to the Department of State Police and
26 for conducting a check of the Statewide Sex Offender Database

1 for each employee. Any information concerning the record of
2 conviction and identification as a sex offender of any such
3 employee obtained by the regional superintendent shall be
4 promptly reported to the president of the appropriate school
5 board or school boards.

6 (g) In order to student teach in the public schools, a
7 person is required to authorize a fingerprint-based criminal
8 history records check and checks of the Statewide Sex Offender
9 Database and Statewide Murderer and Violent Offender Against
10 Youth Database prior to participating in any field experiences
11 in the public schools. Authorization for and payment of the
12 costs of the checks must be furnished by the student teacher.
13 Results of the checks must be furnished to the higher education
14 institution where the student teacher is enrolled and the
15 general superintendent of schools.

16 (h) Upon request of a school, school district, community
17 college district, or private school, any information obtained
18 by the school district pursuant to subsection (f) of this
19 Section within the last year must be made available to that
20 school, school district, community college district, or
21 private school.

22 (Source: P.A. 96-431, eff. 8-13-09; 96-1452, eff. 8-20-10;
23 97-154, eff. 1-1-12; 97-248, eff. 1-1-12; 97-607, eff. 8-26-11;
24 revised 9-28-11.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.