



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3976

Introduced 1/8/2020, by Rep. Keith R. Wheeler

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/1-7

from Ch. 37, par. 801-7

Amends the Juvenile Court Act of 1987. Provides that the name of the minor who is the alleged offender named in a juvenile law enforcement record may be disclosed to the victim or alleged victim named in the law enforcement record upon request by the victim, in writing, to the law enforcement agency for the name of the minor who is the alleged offender named in the law enforcement record, unless the law enforcement agency determines that the release of the information would impede the criminal investigation of the case described in the law enforcement record. Provides that upon receipt of the written request, the law enforcement agency shall provide the identity of the offender or alleged offender to the victim within 30 days after receipt of the request. Provides that the victim or alleged victim named in the law enforcement record, before receiving the information, shall sign an affidavit provided by the law enforcement agency stating that he or she will not disclose the information contained in the law enforcement record to the public, but the victim may use the information for civil litigation purposes. Provides that the identity of the offender or alleged offender may not be publicly disclosed by the victim or alleged victim, except for civil litigation purposes.

LRB101 15238 RLC 64408 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 1-7 as follows:

6 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

7 Sec. 1-7. Confidentiality of juvenile law enforcement and  
8 municipal ordinance violation records.

9 (A) All juvenile law enforcement records which have not  
10 been expunged are confidential and may never be disclosed to  
11 the general public or otherwise made widely available. Juvenile  
12 law enforcement records may be obtained only under this Section  
13 and Section 1-8 and Part 9 of Article V of this Act, when their  
14 use is needed for good cause and with an order from the  
15 juvenile court, as required by those not authorized to retain  
16 them. Inspection, copying, and disclosure of juvenile law  
17 enforcement records maintained by law enforcement agencies or  
18 records of municipal ordinance violations maintained by any  
19 State, local, or municipal agency that relate to a minor who  
20 has been investigated, arrested, or taken into custody before  
21 his or her 18th birthday shall be restricted to the following:

22 (0.05) The minor who is the subject of the juvenile law  
23 enforcement record, his or her parents, guardian, and

1 counsel.

2 (0.10) Judges of the circuit court and members of the  
3 staff of the court designated by the judge.

4 (0.15) An administrative adjudication hearing officer  
5 or members of the staff designated to assist in the  
6 administrative adjudication process.

7 (1) Any local, State, or federal law enforcement  
8 officers or designated law enforcement staff of any  
9 jurisdiction or agency when necessary for the discharge of  
10 their official duties during the investigation or  
11 prosecution of a crime or relating to a minor who has been  
12 adjudicated delinquent and there has been a previous  
13 finding that the act which constitutes the previous offense  
14 was committed in furtherance of criminal activities by a  
15 criminal street gang, or, when necessary for the discharge  
16 of its official duties in connection with a particular  
17 investigation of the conduct of a law enforcement officer,  
18 an independent agency or its staff created by ordinance and  
19 charged by a unit of local government with the duty of  
20 investigating the conduct of law enforcement officers. For  
21 purposes of this Section, "criminal street gang" has the  
22 meaning ascribed to it in Section 10 of the Illinois  
23 Streetgang Terrorism Omnibus Prevention Act.

24 (2) Prosecutors, public defenders, probation officers,  
25 social workers, or other individuals assigned by the court  
26 to conduct a pre-adjudication or pre-disposition

1 investigation, and individuals responsible for supervising  
2 or providing temporary or permanent care and custody for  
3 minors under the order of the juvenile court, when  
4 essential to performing their responsibilities.

5 (3) Federal, State, or local prosecutors, public  
6 defenders, probation officers, and designated staff:

7 (a) in the course of a trial when institution of  
8 criminal proceedings has been permitted or required  
9 under Section 5-805;

10 (b) when institution of criminal proceedings has  
11 been permitted or required under Section 5-805 and the  
12 minor is the subject of a proceeding to determine the  
13 amount of bail;

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

19 (d) in the course of prosecution or administrative  
20 adjudication of a violation of a traffic, boating, or  
21 fish and game law, or a county or municipal ordinance.

22 (4) Adult and Juvenile Prisoner Review Board.

23 (5) Authorized military personnel.

24 (5.5) Employees of the federal government authorized  
25 by law.

26 (6) Persons engaged in bona fide research, with the

1 permission of the Presiding Judge and the chief executive  
2 of the respective law enforcement agency; provided that  
3 publication of such research results in no disclosure of a  
4 minor's identity and protects the confidentiality of the  
5 minor's record.

6 (7) Department of Children and Family Services child  
7 protection investigators acting in their official  
8 capacity.

9 (8) The appropriate school official only if the agency  
10 or officer believes that there is an imminent threat of  
11 physical harm to students, school personnel, or others who  
12 are present in the school or on school grounds.

13 (A) Inspection and copying shall be limited to  
14 juvenile law enforcement records transmitted to the  
15 appropriate school official or officials whom the  
16 school has determined to have a legitimate educational  
17 or safety interest by a local law enforcement agency  
18 under a reciprocal reporting system established and  
19 maintained between the school district and the local  
20 law enforcement agency under Section 10-20.14 of the  
21 School Code concerning a minor enrolled in a school  
22 within the school district who has been arrested or  
23 taken into custody for any of the following offenses:

24 (i) any violation of Article 24 of the Criminal  
25 Code of 1961 or the Criminal Code of 2012;

26 (ii) a violation of the Illinois Controlled

1 Substances Act;

2 (iii) a violation of the Cannabis Control Act;

3 (iv) a forcible felony as defined in Section

4 2-8 of the Criminal Code of 1961 or the Criminal

5 Code of 2012;

6 (v) a violation of the Methamphetamine Control

7 and Community Protection Act;

8 (vi) a violation of Section 1-2 of the

9 Harassing and Obscene Communications Act;

10 (vii) a violation of the Hazing Act; or

11 (viii) a violation of Section 12-1, 12-2,

12 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.4, 12-3.5,

13 12-5, 12-7.3, 12-7.4, 12-7.5, 25-1, or 25-5 of the

14 Criminal Code of 1961 or the Criminal Code of 2012.

15 The information derived from the juvenile law

16 enforcement records shall be kept separate from and

17 shall not become a part of the official school record

18 of that child and shall not be a public record. The

19 information shall be used solely by the appropriate

20 school official or officials whom the school has

21 determined to have a legitimate educational or safety

22 interest to aid in the proper rehabilitation of the

23 child and to protect the safety of students and

24 employees in the school. If the designated law

25 enforcement and school officials deem it to be in the

26 best interest of the minor, the student may be referred

1 to in-school or community-based social services if  
2 those services are available. "Rehabilitation  
3 services" may include interventions by school support  
4 personnel, evaluation for eligibility for special  
5 education, referrals to community-based agencies such  
6 as youth services, behavioral healthcare service  
7 providers, drug and alcohol prevention or treatment  
8 programs, and other interventions as deemed  
9 appropriate for the student.

10 (B) Any information provided to appropriate school  
11 officials whom the school has determined to have a  
12 legitimate educational or safety interest by local law  
13 enforcement officials about a minor who is the subject  
14 of a current police investigation that is directly  
15 related to school safety shall consist of oral  
16 information only, and not written juvenile law  
17 enforcement records, and shall be used solely by the  
18 appropriate school official or officials to protect  
19 the safety of students and employees in the school and  
20 aid in the proper rehabilitation of the child. The  
21 information derived orally from the local law  
22 enforcement officials shall be kept separate from and  
23 shall not become a part of the official school record  
24 of the child and shall not be a public record. This  
25 limitation on the use of information about a minor who  
26 is the subject of a current police investigation shall

1           in no way limit the use of this information by  
2           prosecutors in pursuing criminal charges arising out  
3           of the information disclosed during a police  
4           investigation of the minor. For purposes of this  
5           paragraph, "investigation" means an official  
6           systematic inquiry by a law enforcement agency into  
7           actual or suspected criminal activity.

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

21          (10) The president of a park district. Inspection and  
22          copying shall be limited to juvenile law enforcement  
23          records transmitted to the president of the park district  
24          by the Department of State Police under Section 8-23 of the  
25          Park District Code or Section 16a-5 of the Chicago Park  
26          District Act concerning a person who is seeking employment



1 with that park district and who has been adjudicated a  
2 juvenile delinquent for any of the offenses listed in  
3 subsection (c) of Section 8-23 of the Park District Code or  
4 subsection (c) of Section 16a-5 of the Chicago Park  
5 District Act.

6 (11) Persons managing and designated to participate in  
7 a court diversion program as designated in subsection (6)  
8 of Section 5-105.

9 (12) The Public Access Counselor of the Office of the  
10 Attorney General, when reviewing juvenile law enforcement  
11 records under its powers and duties under the Freedom of  
12 Information Act.

13 (13) Collection agencies, contracted or otherwise  
14 engaged by a governmental entity, to collect any debts due  
15 and owing to the governmental entity.

16 (14) The victim or alleged victim named in a law  
17 enforcement record upon request by the victim, in writing,  
18 to the law enforcement agency for the name of the minor who  
19 is the alleged offender named in the law enforcement  
20 record, unless the law enforcement agency determines that  
21 the release of the information would impede the criminal  
22 investigation of the case described in the law enforcement  
23 record. Upon receipt of the written request, the law  
24 enforcement agency shall provide the identity of the  
25 offender or alleged offender to the victim within 30 days  
26 after receipt of the request. The victim or alleged victim

1       named in the law enforcement record, before receiving the  
2       information, shall sign an affidavit provided by the law  
3       enforcement agency stating that he or she will not disclose  
4       the information contained in the law enforcement record to  
5       the public, but the victim may use the information for  
6       civil litigation purposes. The identity of the offender or  
7       alleged offender may not be publicly disclosed by the  
8       victim or alleged victim, except for civil litigation  
9       purposes.

10       (B)(1) Except as provided in paragraph (2), no law  
11       enforcement officer or other person or agency may knowingly  
12       transmit to the Department of Corrections, Department of State  
13       Police, or to the Federal Bureau of Investigation any  
14       fingerprint or photograph relating to a minor who has been  
15       arrested or taken into custody before his or her 18th birthday,  
16       unless the court in proceedings under this Act authorizes the  
17       transmission or enters an order under Section 5-805 permitting  
18       or requiring the institution of criminal proceedings.

19       (2) Law enforcement officers or other persons or agencies  
20       shall transmit to the Department of State Police copies of  
21       fingerprints and descriptions of all minors who have been  
22       arrested or taken into custody before their 18th birthday for  
23       the offense of unlawful use of weapons under Article 24 of the  
24       Criminal Code of 1961 or the Criminal Code of 2012, a Class X  
25       or Class 1 felony, a forcible felony as defined in Section 2-8  
26       of the Criminal Code of 1961 or the Criminal Code of 2012, or a

1 Class 2 or greater felony under the Cannabis Control Act, the  
2 Illinois Controlled Substances Act, the Methamphetamine  
3 Control and Community Protection Act, or Chapter 4 of the  
4 Illinois Vehicle Code, pursuant to Section 5 of the Criminal  
5 Identification Act. Information reported to the Department  
6 pursuant to this Section may be maintained with records that  
7 the Department files pursuant to Section 2.1 of the Criminal  
8 Identification Act. Nothing in this Act prohibits a law  
9 enforcement agency from fingerprinting a minor taken into  
10 custody or arrested before his or her 18th birthday for an  
11 offense other than those listed in this paragraph (2).

12 (C) The records of law enforcement officers, or of an  
13 independent agency created by ordinance and charged by a unit  
14 of local government with the duty of investigating the conduct  
15 of law enforcement officers, concerning all minors under 18  
16 years of age must be maintained separate from the records of  
17 arrests and may not be open to public inspection or their  
18 contents disclosed to the public. For purposes of obtaining  
19 documents under this Section, a civil subpoena is not an order  
20 of the court.

21 (1) In cases where the law enforcement, or independent  
22 agency, records concern a pending juvenile court case, the  
23 party seeking to inspect the records shall provide actual  
24 notice to the attorney or guardian ad litem of the minor  
25 whose records are sought.

26 (2) In cases where the records concern a juvenile court

1 case that is no longer pending, the party seeking to  
2 inspect the records shall provide actual notice to the  
3 minor or the minor's parent or legal guardian, and the  
4 matter shall be referred to the chief judge presiding over  
5 matters pursuant to this Act.

6 (3) In determining whether the records should be  
7 available for inspection, the court shall consider the  
8 minor's interest in confidentiality and rehabilitation  
9 over the moving party's interest in obtaining the  
10 information. Any records obtained in violation of this  
11 subsection (C) shall not be admissible in any criminal or  
12 civil proceeding, or operate to disqualify a minor from  
13 subsequently holding public office or securing employment,  
14 or operate as a forfeiture of any public benefit, right,  
15 privilege, or right to receive any license granted by  
16 public authority.

17 (D) Nothing contained in subsection (C) of this Section  
18 shall prohibit the inspection or disclosure to victims and  
19 witnesses of photographs contained in the records of law  
20 enforcement agencies when the inspection and disclosure is  
21 conducted in the presence of a law enforcement officer for the  
22 purpose of the identification or apprehension of any person  
23 subject to the provisions of this Act or for the investigation  
24 or prosecution of any crime.

25 (E) Law enforcement officers, and personnel of an  
26 independent agency created by ordinance and charged by a unit

1 of local government with the duty of investigating the conduct  
2 of law enforcement officers, may not disclose the identity of  
3 any minor in releasing information to the general public as to  
4 the arrest, investigation or disposition of any case involving  
5 a minor.

6 (F) Nothing contained in this Section shall prohibit law  
7 enforcement agencies from communicating with each other by  
8 letter, memorandum, teletype, or intelligence alert bulletin  
9 or other means the identity or other relevant information  
10 pertaining to a person under 18 years of age if there are  
11 reasonable grounds to believe that the person poses a real and  
12 present danger to the safety of the public or law enforcement  
13 officers. The information provided under this subsection (F)  
14 shall remain confidential and shall not be publicly disclosed,  
15 except as otherwise allowed by law.

16 (G) Nothing in this Section shall prohibit the right of a  
17 Civil Service Commission or appointing authority of any federal  
18 government, state, county or municipality examining the  
19 character and fitness of an applicant for employment with a law  
20 enforcement agency, correctional institution, or fire  
21 department from obtaining and examining the records of any law  
22 enforcement agency relating to any record of the applicant  
23 having been arrested or taken into custody before the  
24 applicant's 18th birthday.

25 (G-5) Information identifying victims and alleged victims  
26 of sex offenses shall not be disclosed or open to the public

1 under any circumstances. Nothing in this Section shall prohibit  
2 the victim or alleged victim of any sex offense from  
3 voluntarily disclosing his or her own identity.

4 (H) The changes made to this Section by Public Act 98-61  
5 apply to law enforcement records of a minor who has been  
6 arrested or taken into custody on or after January 1, 2014 (the  
7 effective date of Public Act 98-61).

8 (H-5) Nothing in this Section shall require any court or  
9 adjudicative proceeding for traffic, boating, fish and game  
10 law, or municipal and county ordinance violations to be closed  
11 to the public.

12 (I) Willful violation of this Section is a Class C  
13 misdemeanor and each violation is subject to a fine of \$1,000.  
14 This subsection (I) shall not apply to the person who is the  
15 subject of the record.

16 (J) A person convicted of violating this Section is liable  
17 for damages in the amount of \$1,000 or actual damages,  
18 whichever is greater.

19 (Source: P.A. 99-298, eff. 8-6-15; 100-285, eff. 1-1-18;  
20 100-720, eff. 8-3-18; 100-863, eff. 8-14-18; 100-1162, eff.  
21 12-20-18.)