



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4806

Introduced 1/12/2010, by Rep. Darlene J. Senger

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/13A-2.5  
105 ILCS 5/13A-4  
705 ILCS 405/1-8  
705 ILCS 405/5-520

from Ch. 37, par. 801-8

Amends the Safe Schools Law of the School Code and the Juvenile Court Act of 1987. Changes the definition of "disruptive student" to include suspension or expulsion eligible students and students in any of grades 6 through 12 against whom juvenile or criminal proceedings alleging the commission of a forcible felony are pending or against whom juvenile or criminal proceedings alleging the commission of a sex offense are pending (instead of suspension or expulsion eligible students in any of grades 6 through 12). Provides that a student whom the school district has deemed to pose a continued and substantial disruption to the school environment may be immediately transferred to an alternative program. Provides that transfer to an alternative program shall take place only after a student is allowed to access the due process procedure established by the school district. Requires this process to include a notice presented to the student's parents or guardian stating the intent to transfer the student to an alternative program and an opportunity for the parents or guardian to respond. Provides that pending an adjudication of delinquency for the commission of a forcible felony or for the commission of a sex offense, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, request permission of the presiding judge of the juvenile court to disclose to the principal or chief administrative officer of the school the portion of the juvenile petition or supplemental petition that is sufficient to bring the minor under the jurisdiction the Juvenile Court Act of 1987. Effective immediately.

LRB096 16431 MJR 31698 b

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 13A-2.5 and 13A-4 as follows:

6 (105 ILCS 5/13A-2.5)

7 Sec. 13A-2.5. Disruptive student. "Disruptive student"  
8 includes suspension or expulsion eligible students and  
9 students in any of grades 6 through 12, other than students in  
10 a school district organized under Article 34 of this Code,  
11 against whom juvenile or criminal proceedings alleging the  
12 commission of a forcible felony, as defined in Section 2-8 of  
13 the Criminal Code of 1961, are pending or against whom juvenile  
14 or criminal proceedings alleging the commission of a sex  
15 offense, as defined in Section 2 of the Sex Offender  
16 Registration Act, are pending ~~in any of grades 6 through 12.~~  
17 "Suspension or expulsion eligible students" are those students  
18 that have been found to be eligible for suspension or expulsion  
19 through the discipline process established by a school  
20 district.

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

22 (105 ILCS 5/13A-4)

1           Sec. 13A-4. Administrative transfers. A student who is  
2 determined to be subject to suspension or expulsion in the  
3 manner provided by Section 10-22.6 (or, in the case of a  
4 student enrolled in the public schools of a school district  
5 organized under Article 34, in accordance with the uniform  
6 system of discipline established under Section 34-19) or a  
7 student whom the school district has deemed to pose a continued  
8 and substantial disruption to the school environment may be  
9 immediately transferred to the alternative program. Transfer  
10 to the alternative program shall take place only after a  
11 student is allowed to access the due process procedure  
12 established by the school district. This process shall include  
13 a notice presented to the student's parents or guardian stating  
14 the intent to transfer the student to an alternative program  
15 and an opportunity for the parents or guardian to respond. At  
16 the earliest time following that transfer appropriate  
17 personnel from the sending school district and appropriate  
18 personnel of the alternative program shall meet to develop an  
19 alternative education plan for the student. The student's  
20 parent or guardian shall be invited to this meeting. The  
21 student may be invited. The alternative educational plan shall  
22 include, but not be limited to all of the following:

23           (1) The duration of the plan, including a date after  
24 which the student may be returned to the regular  
25 educational program in the public schools of the  
26 transferring district. If the parent or guardian of a

1 student who is scheduled to be returned to the regular  
2 education program in the public schools of the district  
3 files a written objection to the return with the principal  
4 of the alternative school, the matter shall be referred by  
5 the principal to the regional superintendent of the  
6 educational service region in which the alternative school  
7 program is located for a hearing. Notice of the hearing  
8 shall be given by the regional superintendent to the  
9 student's parent or guardian. After the hearing, the  
10 regional superintendent may take such action as he or she  
11 finds appropriate and in the best interests of the student.  
12 The determination of the regional superintendent shall be  
13 final.

14 (2) The specific academic and behavioral components of  
15 the plan.

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

18 Notwithstanding any other provision of this Article, if a  
19 student for whom an individualized educational program has been  
20 developed under Article 14 is transferred to an alternative  
21 school program under this Article 13A, that individualized  
22 educational program shall continue to apply to that student  
23 following the transfer unless modified in accordance with the  
24 provisions of Article 14.

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

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

3 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

4 Sec. 1-8. Confidentiality and accessibility of juvenile  
5 court records.

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

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

11 (2) Law enforcement officers and law enforcement  
12 agencies when such information is essential to executing an  
13 arrest or search warrant or other compulsory process, or to  
14 conducting an ongoing investigation or relating to a minor  
15 who has been adjudicated delinquent and there has been a  
16 previous finding that the act which constitutes the  
17 previous offense was committed in furtherance of criminal  
18 activities by a criminal street gang.

19 Before July 1, 1994, for the purposes of this Section,  
20 "criminal street gang" means any ongoing organization,  
21 association, or group of 3 or more persons, whether formal  
22 or informal, having as one of its primary activities the  
23 commission of one or more criminal acts and that has a  
24 common name or common identifying sign, symbol or specific  
25 color apparel displayed, and whose members individually or

1 collectively engage in or have engaged in a pattern of  
2 criminal activity.

3 Beginning July 1, 1994, for purposes of this Section,  
4 "criminal street gang" has the meaning ascribed to it in  
5 Section 10 of the Illinois Streetgang Terrorism Omnibus  
6 Prevention Act.

7 (3) Judges, hearing officers, prosecutors, probation  
8 officers, social workers or other individuals assigned by  
9 the court to conduct a pre-adjudication or predisposition  
10 investigation, and individuals responsible for supervising  
11 or providing temporary or permanent care and custody for  
12 minors pursuant to the order of the juvenile court when  
13 essential to performing their responsibilities.

14 (4) Judges, prosecutors and probation officers:

15 (a) in the course of a trial when institution of  
16 criminal proceedings has been permitted or required  
17 under Section 5-805; or

18 (b) when criminal proceedings have been permitted  
19 or required under Section 5-805 and a minor is the  
20 subject of a proceeding to determine the amount of  
21 bail; or

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

1           (d) when a minor becomes 17 years of age or older,  
2           and is the subject of criminal proceedings, including a  
3           hearing to determine the amount of bail, a pre-trial  
4           investigation, a pre-sentence investigation, a fitness  
5           hearing, or proceedings on an application for  
6           probation.

7           (5) Adult and Juvenile Prisoner Review Boards.

8           (6) Authorized military personnel.

9           (7) Victims, their subrogees and legal  
10          representatives; however, such persons shall have access  
11          only to the name and address of the minor and information  
12          pertaining to the disposition or alternative adjustment  
13          plan of the juvenile court.

14          (8) Persons engaged in bona fide research, with the  
15          permission of the presiding judge of the juvenile court and  
16          the chief executive of the agency that prepared the  
17          particular records; provided that publication of such  
18          research results in no disclosure of a minor's identity and  
19          protects the confidentiality of the record.

20          (9) The Secretary of State to whom the Clerk of the  
21          Court shall report the disposition of all cases, as  
22          required in Section 6-204 of the Illinois Vehicle Code.  
23          However, information reported relative to these offenses  
24          shall be privileged and available only to the Secretary of  
25          State, courts, and police officers.

26          (10) The administrator of a bonafide substance abuse

1 student assistance program with the permission of the  
2 presiding judge of the juvenile court.

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

15 (A-1) Findings and exclusions of paternity entered in  
16 proceedings occurring under Article II of this Act shall be  
17 disclosed, in a manner and form approved by the Presiding Judge  
18 of the Juvenile Court, to the Department of Healthcare and  
19 Family Services when necessary to discharge the duties of the  
20 Department of Healthcare and Family Services under Article X of  
21 the Illinois Public Aid Code.

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

26 (C) Except as otherwise provided in this subsection (C),



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

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

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

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

26 (0.4) Any records obtained in violation of this

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

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

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

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

1 adult, (v) an act that would be an offense under  
2 Section 401 of the Illinois Controlled Substances Act  
3 if committed by an adult, (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 (2) The court shall allow the general public to have  
10 access to the name, address, and offense of a minor who is  
11 at least 13 years of age at the time the offense is  
12 committed and who is convicted, in criminal proceedings  
13 permitted or required under Section 5-4, under either of  
14 the following circumstances:

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

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

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

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

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

1 evidence which were made in proceedings under this Act.

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

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

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

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

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

22 (I) The Clerk of the Circuit Court shall report to the  
23 Department of State Police, in the form and manner required by  
24 the Department of State Police, the final disposition of each  
25 minor who has been arrested or taken into custody before his or  
26 her 17th birthday for those offenses required to be reported

1 under Section 5 of the Criminal Identification Act. Information  
2 reported to the Department under this Section may be maintained  
3 with records that the Department files under Section 2.1 of the  
4 Criminal Identification Act.

5 (Source: P.A. 95-123, eff. 8-13-07; 96-212, eff. 8-10-09.)

6 (705 ILCS 405/5-520)

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

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

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

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

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

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

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

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