



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5602

Introduced 2/15/2012, by Rep. Carol A. Sente

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/22-20	from Ch. 122, par. 22-20
705 ILCS 405/1-7	from Ch. 37, par. 801-7
705 ILCS 405/5-905	

Amends the School Code and the Juvenile Court Act of 1987. Provides that the inspection and copying of law enforcement records maintained by law enforcement agencies that relate to a minor who has been arrested or taken into custody before his or her 17th birthday may be released to appropriate school officials by a local law enforcement agency under a reciprocal reporting system established and maintained between the school district and the local law enforcement agency concerning a minor enrolled in a school within the school district who is the subject of a police investigation, or has been arrested or taken into custody for an offense classified as a felony or a Class A or B misdemeanor. Provides that the information derived from the law enforcement records shall be kept separate from and shall not become a part of the official school record of that child and shall not be a public record. Provides that the information shall be used solely by the appropriate school official or officials to aid in the proper rehabilitation of the child and to protect the safety of students and employees in the school.

LRB097 17841 RLC 63061 b

1 AN ACT concerning juveniles.

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 22-20 as follows:

6 (105 ILCS 5/22-20) (from Ch. 122, par. 22-20)

7 Sec. 22-20. All courts and law enforcement agencies of the  
8 State of Illinois and its political subdivisions shall report  
9 to the principal of any public school in this State whenever a  
10 child enrolled therein is detained for proceedings under the  
11 Juvenile Court Act of 1987, as heretofore and hereafter  
12 amended, or for any criminal offense or any violation of a  
13 municipal or county ordinance. The report shall include the  
14 basis for detaining the child, circumstances surrounding the  
15 events which led to the child's detention, and status of  
16 proceedings. The report shall be updated as appropriate to  
17 notify the principal of developments and the disposition of the  
18 matter.

19 The information derived thereby shall be kept separate from  
20 and shall not become a part of the official school record of  
21 such child and shall not be a public record. Such information  
22 shall be used solely by the appropriate school official or  
23 officials ~~principal, counselors and teachers of the school~~ to

1 aid in the proper rehabilitation of the child and to protect  
2 the safety of students and employees in the school.

3 (Source: P.A. 89-610, eff. 8-6-96.)

4 Section 10. The Juvenile Court Act of 1987 is amended by  
5 changing Sections 1-7 and 5-905 as follows:

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

7 Sec. 1-7. Confidentiality of law enforcement records.

8 (A) Inspection and copying of law enforcement records  
9 maintained by law enforcement agencies that relate to a minor  
10 who has been arrested or taken into custody before his or her  
11 17th birthday shall be restricted to the following:

12 (1) Any local, State or federal law enforcement  
13 officers of any jurisdiction or agency when necessary for  
14 the discharge of their official duties during the  
15 investigation or prosecution of a crime or relating to a  
16 minor who has been adjudicated delinquent and there has  
17 been a previous finding that the act which constitutes the  
18 previous offense was committed in furtherance of criminal  
19 activities by a criminal street gang, or, when necessary  
20 for the discharge of its official duties in connection with  
21 a particular investigation of the conduct of a law  
22 enforcement officer, an independent agency or its staff  
23 created by ordinance and charged by a unit of local  
24 government with the duty of investigating the conduct of

1 law enforcement officers. For purposes of this Section,  
2 "criminal street gang" has the meaning ascribed to it in  
3 Section 10 of the Illinois Streetgang Terrorism Omnibus  
4 Prevention Act.

5 (2) Prosecutors, probation officers, social workers,  
6 or other individuals assigned by the court to conduct a  
7 pre-adjudication or pre-disposition investigation, and  
8 individuals responsible for supervising or providing  
9 temporary or permanent care and custody for minors pursuant  
10 to the order of the juvenile court, when essential to  
11 performing their responsibilities.

12 (3) Prosecutors and probation officers:

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

16 (b) when institution of criminal proceedings has  
17 been permitted or required under Section 5-805 and such  
18 minor is the subject of a proceeding to determine the  
19 amount of bail; or

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

25 (4) Adult and Juvenile Prisoner Review Board.

26 (5) Authorized military personnel.

1           (6) Persons engaged in bona fide research, with the  
2 permission of the Presiding Judge of the Juvenile Court and  
3 the chief executive of the respective law enforcement  
4 agency; provided that publication of such research results  
5 in no disclosure of a minor's identity and protects the  
6 confidentiality of the minor's record.

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

10           (8) The appropriate school official. Inspection and  
11 copying shall be limited to law enforcement records  
12 transmitted to the appropriate school official or  
13 officials by a local law enforcement agency under a  
14 reciprocal reporting system established and maintained  
15 between the school district and the local law enforcement  
16 agency under Section 10-20.14 of the School Code concerning  
17 a minor enrolled in a school within the school district who  
18 is the subject of a police investigation, or has been  
19 arrested or taken into custody for an offense classified as  
20 a felony or a Class A or B misdemeanor. The information  
21 derived from the law enforcement records shall be kept  
22 separate from and shall not become a part of the official  
23 school record of that child and shall not be a public  
24 record. The information shall be used solely by the  
25 appropriate school official or officials to aid in the  
26 proper rehabilitation of the child and to protect the

1 safety of students and employees in the school. ~~any of the~~  
2 ~~following offenses:~~

3 ~~(i) unlawful use of weapons under Section 24-1 of~~  
4 ~~the Criminal Code of 1961;~~

5 ~~(ii) a violation of the Illinois Controlled~~  
6 ~~Substances Act;~~

7 ~~(iii) a violation of the Cannabis Control Act;~~

8 ~~(iv) a forcible felony as defined in Section 2-8 of~~  
9 ~~the Criminal Code of 1961; or~~

10 ~~(v) a violation of the Methamphetamine Control and~~  
11 ~~Community Protection Act.~~

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

25 (B) (1) Except as provided in paragraph (2), no law  
26 enforcement officer or other person or agency may knowingly

1 transmit to the Department of Corrections, Adult Division  
2 or the Department of State Police or to the Federal Bureau  
3 of Investigation any fingerprint or photograph relating to  
4 a minor who has been arrested or taken into custody before  
5 his or her 17th birthday, unless the court in proceedings  
6 under this Act authorizes the transmission or enters an  
7 order under Section 5-805 permitting or requiring the  
8 institution of criminal proceedings.

9 (2) Law enforcement officers or other persons or  
10 agencies shall transmit to the Department of State Police  
11 copies of fingerprints and descriptions of all minors who  
12 have been arrested or taken into custody before their 17th  
13 birthday for the offense of unlawful use of weapons under  
14 Article 24 of the Criminal Code of 1961, a Class X or Class  
15 1 felony, a forcible felony as defined in Section 2-8 of  
16 the Criminal Code of 1961, or a Class 2 or greater felony  
17 under the Cannabis Control Act, the Illinois Controlled  
18 Substances Act, the Methamphetamine Control and Community  
19 Protection Act, or Chapter 4 of the Illinois Vehicle Code,  
20 pursuant to Section 5 of the Criminal Identification Act.  
21 Information reported to the Department pursuant to this  
22 Section may be maintained with records that the Department  
23 files pursuant to Section 2.1 of the Criminal  
24 Identification Act. Nothing in this Act prohibits a law  
25 enforcement agency from fingerprinting a minor taken into  
26 custody or arrested before his or her 17th birthday for an

1 offense other than those listed in this paragraph (2).

2 (C) The records of law enforcement officers, or of an  
3 independent agency created by ordinance and charged by a unit  
4 of local government with the duty of investigating the conduct  
5 of law enforcement officers, concerning all minors under 17  
6 years of age must be maintained separate from the records of  
7 arrests and may not be open to public inspection or their  
8 contents disclosed to the public except by order of the court  
9 presiding over matters pursuant to this Act or when the  
10 institution of criminal proceedings has been permitted or  
11 required under Section 5-805 or such a person has been  
12 convicted of a crime and is the subject of pre-sentence  
13 investigation or proceedings on an application for probation or  
14 when provided by law. For purposes of obtaining documents  
15 pursuant to this Section, a civil subpoena is not an order of  
16 the court.

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

22 (2) In cases where the records concern a juvenile court  
23 case that is no longer pending, the party seeking to  
24 inspect the records shall provide actual notice to the  
25 minor or the minor's parent or legal guardian, and the  
26 matter shall be referred to the chief judge presiding over



1 matters pursuant to this Act.

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

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

21 (E) Law enforcement officers, and personnel of an  
22 independent agency created by ordinance and charged by a unit  
23 of local government with the duty of investigating the conduct  
24 of law enforcement officers, may not disclose the identity of  
25 any minor in releasing information to the general public as to  
26 the arrest, investigation or disposition of any case involving

1 a minor.

2 (F) Nothing contained in this Section shall prohibit law  
3 enforcement agencies from communicating with each other by  
4 letter, memorandum, teletype or intelligence alert bulletin or  
5 other means the identity or other relevant information  
6 pertaining to a person under 17 years of age if there are  
7 reasonable grounds to believe that the person poses a real and  
8 present danger to the safety of the public or law enforcement  
9 officers. The information provided under this subsection (F)  
10 shall remain confidential and shall not be publicly disclosed,  
11 except as otherwise allowed by law.

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

20 (Source: P.A. 95-123, eff. 8-13-07; 96-419, eff. 8-13-09.)

21 (705 ILCS 405/5-905)

22 Sec. 5-905. Law enforcement records.

23 (1) Law Enforcement Records. Inspection and copying of law  
24 enforcement records maintained by law enforcement agencies  
25 that relate to a minor who has been arrested or taken into

1 custody before his or her 17th birthday shall be restricted to  
2 the following and when necessary for the discharge of their  
3 official duties:

4 (a) A judge of the circuit court and members of the  
5 staff of the court designated by the judge;

6 (b) Law enforcement officers, probation officers or  
7 prosecutors or their staff, or, when necessary for the  
8 discharge of its official duties in connection with a  
9 particular investigation of the conduct of a law  
10 enforcement officer, an independent agency or its staff  
11 created by ordinance and charged by a unit of local  
12 government with the duty of investigating the conduct of  
13 law enforcement officers;

14 (c) The minor, the minor's parents or legal guardian  
15 and their attorneys, but only when the juvenile has been  
16 charged with an offense;

17 (d) Adult and Juvenile Prisoner Review Boards;

18 (e) Authorized military personnel;

19 (f) Persons engaged in bona fide research, with the  
20 permission of the judge of juvenile court and the chief  
21 executive of the agency that prepared the particular  
22 recording: provided that publication of such research  
23 results in no disclosure of a minor's identity and protects  
24 the confidentiality of the record;

25 (g) Individuals responsible for supervising or  
26 providing temporary or permanent care and custody of minors

1           pursuant to orders of the juvenile court or directives from  
2           officials of the Department of Children and Family Services  
3           or the Department of Human Services who certify in writing  
4           that the information will not be disclosed to any other  
5           party except as provided under law or order of court;

6           (h) The appropriate school official. Inspection and  
7           copying shall be limited to law enforcement records  
8           transmitted to the appropriate school official or  
9           officials by a local law enforcement agency under a  
10          reciprocal reporting system established and maintained  
11          between the school district and the local law enforcement  
12          agency under Section 10-20.14 of the School Code concerning  
13          a minor enrolled in a school within the school district who  
14          is the subject of a police investigation, or has been  
15          arrested or taken into custody for any offense classified  
16          as a felony or a Class A or B misdemeanor. The information  
17          derived from the law enforcement records shall be kept  
18          separate from and shall not become a part of the official  
19          school record of that child and shall not be a public  
20          record. The information shall be used solely by the  
21          appropriate school official or officials to aid in the  
22          proper rehabilitation of the child and to protect the  
23          safety of students and employees in the school.

24          (2) Information identifying victims and alleged victims of  
25          sex offenses, shall not be disclosed or open to public  
26          inspection under any circumstances. Nothing in this Section

1 shall prohibit the victim or alleged victim of any sex offense  
2 from voluntarily disclosing his or her identity.

3 (2.5) If the minor is a victim of aggravated battery,  
4 battery, attempted first degree murder, or other non-sexual  
5 violent offense, the identity of the victim may be disclosed to  
6 appropriate school officials, for the purpose of preventing  
7 foreseeable future violence involving minors, by a local law  
8 enforcement agency pursuant to an agreement established  
9 between the school district and a local law enforcement agency  
10 subject to the approval by the presiding judge of the juvenile  
11 court.

12 (3) Relevant information, reports and records shall be made  
13 available to the Department of Juvenile Justice when a juvenile  
14 offender has been placed in the custody of the Department of  
15 Juvenile Justice.

16 (4) Nothing in this Section shall prohibit the inspection  
17 or disclosure to victims and witnesses of photographs contained  
18 in the records of law enforcement agencies when the inspection  
19 or disclosure is conducted in the presence of a law enforcement  
20 officer for purposes of identification or apprehension of any  
21 person in the course of any criminal investigation or  
22 prosecution.

23 (5) The records of law enforcement officers, or of an  
24 independent agency created by ordinance and charged by a unit  
25 of local government with the duty of investigating the conduct  
26 of law enforcement officers, concerning all minors under 17

1 years of age must be maintained separate from the records of  
2 adults and may not be open to public inspection or their  
3 contents disclosed to the public except by order of the court  
4 or when the institution of criminal proceedings has been  
5 permitted under Section 5-130 or 5-805 or required under  
6 Section 5-130 or 5-805 or such a person has been convicted of a  
7 crime and is the subject of pre-sentence investigation or when  
8 provided by law.

9 (6) Except as otherwise provided in this subsection (6),  
10 law enforcement officers, and personnel of an independent  
11 agency created by ordinance and charged by a unit of local  
12 government with the duty of investigating the conduct of law  
13 enforcement officers, may not disclose the identity of any  
14 minor in releasing information to the general public as to the  
15 arrest, investigation or disposition of any case involving a  
16 minor. Any victim or parent or legal guardian of a victim may  
17 petition the court to disclose the name and address of the  
18 minor and the minor's parents or legal guardian, or both. Upon  
19 a finding by clear and convincing evidence that the disclosure  
20 is either necessary for the victim to pursue a civil remedy  
21 against the minor or the minor's parents or legal guardian, or  
22 both, or to protect the victim's person or property from the  
23 minor, then the court may order the disclosure of the  
24 information to the victim or to the parent or legal guardian of  
25 the victim only for the purpose of the victim pursuing a civil  
26 remedy against the minor or the minor's parents or legal

1 guardian, or both, or to protect the victim's person or  
2 property from the minor.

3 (7) Nothing contained in this Section shall prohibit law  
4 enforcement agencies when acting in their official capacity  
5 from communicating with each other by letter, memorandum,  
6 teletype or intelligence alert bulletin or other means the  
7 identity or other relevant information pertaining to a person  
8 under 17 years of age. The information provided under this  
9 subsection (7) shall remain confidential and shall not be  
10 publicly disclosed, except as otherwise allowed by law.

11 (8) No person shall disclose information under this Section  
12 except when acting in his or her official capacity and as  
13 provided by law or order of court.

14 (Source: P.A. 96-419, eff. 8-13-09; 96-1414, eff. 1-1-11.)